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A DEFENCE

OF

DR. ERIC BENZEL SPARHAM,

CHARGED AND CONVICTED

OF THE

Crime of Murder,

BEING

A MEDICO-LEGAL INQUIRY

INTO THE CAUSE OF THE DEATH OF

MISS SOPHIA ELIZABETH BURNHAM,

HIS SUPPOSED VICTIM.

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1876.

ERRATA.

For "puerpural" read "puerperal." Page 65, thirteenth line from bottom.

For "abortions of a stimulating character" read "medicines of a stimulating character."

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OF

DR. ERIC BENZEL SPARHAM,

Charged and Convicted of the Crime of Murder;

BEING A MEDICO-LEGAL INQUIRY INTO THE CAUSE OF THE DEATH OF MISS SOPHIA ELIZABETH BURNHAM, HIS SUPPOSED VICTIM.

On the 22nd day of December, A.D. 1874, the town of Brockville, Ontario, was startled by the report that a young woman, a resident of the place, and of respectable connections, was lying at the point of death, in consequence of a criminal attempt at abortion on her person by a well known physician, Dr. Eric Benzel Sparham.

This gentleman was one of the oldest practitioners in the town; a man of unobtrusive habits and skill in his profession, and a member of a highly respected family at Kingston, which has contributed four brothers to the medical profession of Canada.

Although it was almost incredible, that a physician of repute would descend to such vile practices, as were indicated by the above report, and although it was even less credible that a surgeon of undoubted skill, with his life and reputation dependant upon the issue, could so bungle an operation as to cause death, when nothing but the grossest ignorance and bungling could have led to such a result; yet, there were many well-meaning people who accepted the report as literally true, because it came to them with that minute circumstance of detail which always bears the impress of credibility. When upon circumstantial evidence of a specific character the public has had its sympathies so worked upon, as to pronounce judgement, in advance of a duly authorized investigation, it is scarcely possible, even with very clear proofs *per contra*, to secure that impartiality of feeling so desirable to the successful administration of justice. It cannot be denied that a very strong feeling of prejudice was entertained towards the accused in Brockville, and the country generally, which was the chief means of preventing a triumphant refutation of the charge, in conse-

quence of which they now suffer. The rumor, generally credited at the time, and accepted as true by the prosecution, but in some important particulars denied by the defence, was, that Miss Sophia Elizabeth Burnham, at the instigation of her seducer, William Greaves, Grand Trunk Ticket Agent, applied to Dr. Sparham to be relieved of the "fruit of her shame," and that he, after having administered to her, without success, certain drugs to procure an abortion, did, furthermore, use an instrument upon her, with a like intent, but with a fatal result. In the above brief statement of the case, we have given the conflicting rumors afloat at the time, some sort of tangible consistence, so that without unnecessary circumlocution the public may be seized of the substance of what further opportunity, and a progressive development of events, established as facts worthy of general credence. It would be impossible now to convey a tithe of the exaggerations current at the time, or express in feeble words the intensity of excitement which pervaded the public mind, as the successive incidents comprising the history of the case for the prosecution were gradually brought to light. Indeed, there is no crime in the Decalogue so abhorrent to a civilized and Christian community as that of abortion, when its perpetration involves the death of the woman. And it unfortunately happens, for that impartiality so characteristic of British justice, that the simple accusation of complicity in it, is, with many, under such circumstances, convincing proof of actual guilt. The "Brockville Abortion Case" was no exception to the rule. Throughout the whole agitation consequent upon the imprisonment, trial, and judicial conviction of the prisoners, it was apparent that the public could see but one side to the question. From its very inception to its culmination, when the unfortunate prisoners retired to their cells with the Judge's charge still ringing in their ears, the popular clamor was constantly for conviction. The universal sympathy extended to the ill-starred victim of seduction, and the general detestation of the crime, believed to have been committed as a cloak to its results, reacted disastrously upon the prisoners, and their mute appeal for forbearance and a dispassionate consideration of their case, was disregarded in the apparent determination to establish against them conclusive proofs of criminality. But scarcely had the sound of the Judge's voice ceased to be heard, before a due sense of the severity and injustice of the penalty was felt by the public. Everybody was now willing to sign a petition for reprieve, and it is confidently asserted that some of the jury who sat upon the case re-

gretted, when too late, bringing in a verdict the result of which, lacking justification in clear proof, seemed to awaken strange misgivings, that possibly there had been a miscarriage of justice. Without doubt a remarkable change in public feeling had taken place, when men were forced to reflect over all the circumstances in connection with the case. People were all along led to believe that there were no exculpatory circumstances in favor of the prisoners. The proceedings, preliminary to the trial, were so managed to favour the views of the prosecution, that nothing could be said or done to throw the shadow of a doubt upon the certainty of their guilt; and the counsel for the defence so conducted his case that not the slightest suspicion was entertained, until almost the last hour of the last day, that rebuttal testimony of an important scientific character would be given, completely subversive of the theory advanced by the prosecution as to the cause of death in the woman. Although the Judge, jury, and general public were not competent, at first blush, to comprehend the peculiar value of the scientific truths elicited from the medical witnesses for the defence, in favor of the theory that the woman came to her death from natural causes, yet sufficient was understood to throw grave doubts upon the question of the actual guilt of the prisoner Sparham, both as to act and intention, and he certainly must have received the benefit of the doubt from the jury, if the Judge in his wisdom had not seen fit to comment adversely upon a portion of the medical evidence which, he admitted, he failed to understand, but which might have been satisfactorily explained at the time if he had intimated a desire for a clearer and more intelligible exposition. It is a little singular that in important trials involving the issue of life or death, Judges will constantly permit, under a system of harassing and most insolent cross-examination, material evidence to be so limpingly enunciated that the right frequently appears to be the wrong. Opposing counsel, stirred by a spirit of rivalry, strive frequently not how to elicit truth, but how best to conceal it, and by an artful system of tortuous and torturing cross-questioning, seek to convey impressions, and actually do convey them, the reverse of what is intended by the witness himself. The evidence of a witness in the witness box is to a very great extent under the control of the examining counsel, who extracts just as much or as little of the truth as suits his purpose. Under the system of our courts, during his examination by counsel, a witness has no right to volunteer information. His business is to answer questions, and often no oppor-

tunity is given to explain more fully and comprehensively that which, in the absence of such explanation, might appear doubtful, and even contradictory.

The object of the present pamphlet is to show wherein a miscarriage of justice ensued at the "Brockville Abortion Trial," and to lay before the public such facts, bearing upon the innocence of the prisoner Sparham, as will lead to a reversal of his grievious sentence, and a triumphant vindication of the supreme logic of science.

During the initiatory proceedings at Brockville, public feeling was so aroused against the prisoners, that a truthful, impartial, and careful investigation into all the circumstances of the case was impracticable. This feeling, although for the ends of justice to be regretted, was, under the circumstances, natural enough, when we consider by what artificial stimuli the sensibilities of the public were goaded into such extraordinary activity. Dr. Moore, the medical attendant of the supposed victim of the abortionist, was unfortunately her brother-in-law, and without reflection assumed the truth of the allegations charged against the prisoners. Indeed, he fairly lost command of his head, and went about declaring the woman to be dying for nearly a week before death ended the tragedy. Of course the public listened to his lugubrious prognosis like precious droppings from the lips of an oracle, and measured the enormity of the crime by the length of time it required for death to struggle with and strangle its victim. The general excitement was further embittered and intensified by comments in the public press, which, by assuming that a crime had been committed, and denouncing it in inflammatory language, virtually prejudged the case, thus rendering all efforts suspicious and nugatory that tended to the exculpation of the prisoners. The few friends who remained constant to them in the hour of trial were powerless in the face of such adverse circumstances, for, mortified and confused by the general tone of condemnation, and disheartened by the persistent objections raised to what they considered a fair and impartial investigation, they were forced to witness men placed without proper checks in evidence upon the case, who, from previous connection, could not possibly be favourably disposed towards the prisoner Sparham. Indeed, scant justice was meted out to the unfortunate men from the beginning. Assuming their guilt, every effort was made to establish proofs of it, whilst a morbid and most unreasonable dread was constantly manifested that to permit the slightest effort in the direction of exculpation, in the only way that innocence

of the crime could be established, would be to insure the escape of men who deserved the extreme penalty of the law. The innocence or guilt of the accused could only be made plain by a post mortem examination of deceased; yet this examination was entrusted to men who for years had been the rivals in business and professional distinction of the prisoner Sparham. We do not charge the gentlemen who conducted the post mortem examination with collusion, or intimate a suspicion that their evidence was not characterized by the strictest adherence to truth; but we do declare that where a few additional strokes of the scalpel were, perhaps, life or death to the prisoners—where a well-known friendliness, or at least absence of any disposition to unfriendliness towards the prisoners, would still further tend to sharpen the preceptions of the morbid anatomist, and lead to the most careful and searching inquiry into the cause of death, it was a fatal mistake that in connection with those gentlemen others of equal professional attainments were not permitted to assist, and watch the dissections in favor of the prisoners. The law has provided that the prisoner at the bar may challenge a certain number of jurymen, whom he considers to be ill-disposed towards him, in order that no undue advantage shall be taken of him, but that he himself shall be satisfied with that God-like impartiality which aims equally to protect the honest citizen in his rights, and punish the transgressor for his violation of them. If this be an inalienable privilege, and reasonably regarded as one of our most cherished constitutional safeguards, how much more important that where evidence is being secured which must either convict or clear the accused, men shall be selected to perform that duty who may have the confidence equally of the law and of the prisoner in charge. A violation of this principle is justly regarded as an encroachment upon the dearest privilege of the subject, who claims the right of being considered innocent until he is proven guilty. Nevertheless, this unjust and cowardly abnegation of the principle of common fair-play was unblushingly, if not openly, announced to all whom it might concern in Brockville, by no less a person than the County Attorney, E. J. Senkler, who, like an ordinary policeman, stood sentry at the door of the dissecting room to warn off all interlopers, and prevent all being present, but those in whom the prisoner Sparham had no confidence. It mattered everything to the prisoners that the post mortem examination should be held by men, not only competent to unravel the hidden mysteries veiled within the inanimate remains, but also by men who could possibly have no motive, directly

or indirectly, of seeing through a glass darkly. Too often the morbid anatomist finds, or thinks he finds, that which he is in search of. He seeks after that which he believes to exist. He believes that to exist which by a subtle and altogether unconscious process of reasoning, irrespective of professional knowledge, he has been convinced is true. And finally a man's conviction of the truth or falsity of any charge of criminal proceedure will depend very much upon his natural predilections towards the one thing or the other. Our inquiry has assumed this peculiarly unpleasant direction, not to find fault with the recorded and properly attested facts elicited by the post mortem scrutiny, but to expose the animus, which dictated a positive refusal, that other medical men might witness the examination of the body. But while we believe that the post mortem examiners did, as far as they went, honestly and faithfully record the facts, evolved under the strokes of the knife, their deductions were singularly at variance with the facts, and if other medical men had been permitted to have been present, there probably would not have been that unanimity of opinion which bore so heavily against the prisoner Sparham. We do not say this by way of conjecture, but from conviction, because so many competent medical men, after having carefully read the record of the post mortem examination, have come to a different conclusion than that arrived at by Doctors Morden and Brouse, that we feel perfectly justified in making the assertion. We do not, however blame these gentlemen for their unanimity or their opinion, which of course they could not avoid entertaining and expressing. But we do most emphatically blame them for not explaining to the coroner's jury, and to the court during trial, that while they held the view that the woman Burnham came to her death through blood-poisoning, or pyaemia, induced by violence applied to the womb, yet some of the best medical authorities of the day, notably Karl Schroeder, contended that such an occurrence was extraordinarily infrequent; that where pyaemia or ichorrhoemia occurred in the puerpural female, it was caused almost without exception by some epidemic influence, rather than by injuries inflicted upon the womb. In other words, without a co-existant epidemic influence, the existence of such cases were scarcely ever noticed. If they had, in addition to the above interesting and valuable piece of knowledge, informed the coroner's jury and court that an opening through the upper part of the womb, found post mortem, with antecedent symptoms of blood poisoning, was not infrequently produced by natural causes, we would have been perfectly satisfied, for then

there would have been scope for profitable investigation. But we have never been able to understand why these gentlemen were so unaccountably reticent in the witness box with regard to certain well established medical facts, the bare mention of which, at an earlier stage of the proceedings, would have raised the doubt (a most important consideration) whether the deceased came to her death by violence, or from natural causes. By withholding all expressions of doubt as to the guilt of the prisoner Sparham, at the coroner's inquest, and by the failure of the medical witnesses to mention that a pregnant woman, living in a small-pox infected house, was exposed to abortion, puerpural fever, and death; the general impression of the actual guilt of the prisoner was so decided, that medical men of repute were reluctant to testify for the defence when no reasonable theory had been adduced to show that there was even a prospect of establishing a doubt of guilt. It thus happened that when the trial took place, the medical witnesses called by the defence were insignificant in point of numbers, only two being found, Doctors Grant and Church, who had taken sufficient interest in the case to inquire into its merits, and satisfy themselves that death resulted rather from natural causes than by violence. But such was the universal feeling of detestation against the prisoners at the day of trial, that these gentlemen incurred no slight degree of odium for presuming to lift a voice so out of consonance with the general temper. Newspaper correspondents, catching the spirit of personal defamation, strongly hinted a suspicion of perjury as the only satisfactory means of accounting for testimony that did not point to the sweeping conclusion of guilt, without a mitigating feature to qualify its enormity. We mention this circumstance to show how difficult it is, even in a country so constitutionally hedged in by safeguards as our own, to always secure the ends of justice in that dispassionate and fearless manner which is at once the pride and protection of the citizen. But while there were only two medical witnesses examined for the defence, and five for the prosecution, all the other medical men at the trial were in accord with the witnesses who testified for the defence. We have the certificates of three of them, Doctors Lander, Hall, and Elkington, embodied in this pamphlet, so that the public may be assured we speak not without warrant. Besides these, we can produce some of the highest medical authorities of the day in Toronto, Kingston, Montreal and Ottawa, who, after having carefully read all the evidence adduced by the prosecution, would be now willing to step into the witness box

and testify in behalf of the prisoner Sparham. We have thus shown some of the peculiar difficulties that constantly waited upon this unfortunate gentleman at every effort to shake himself clear of the net of circumstantial evidence that enfolded him in its meshes. The storm of popular fury that howled about his head was most appalling in its transcendent fierceness and malignity. Trusting to the lights of science to vindicate the truth, and dispel the lowering clouds which darkened his future life, he remained hopeful, though each returning wave of popular indignation overwhelmed him, paralyzing every exertion to prove his innocence of the crime imputed to him. Debarred the society of friends, and those noble pursuits that give to life its only pleasures, he still hopes, though the gloomy corridors of the dark prison house re-echoes "never more." He appeals to the generous and intelligent British public to calmly weigh, and dispassionately consider, the overwhelming evidences in his favor, which now for the first time he presents in all their magnitude and irresistible force of logical conclusiveness. In order to keep the reader upon a level with all the facts, that comprise a history of this most extraordinary case, it is our duty to mention here, that the woman Burnham, for weeks previous to her illness, was constantly exposed to the infection of small pox. Her brother was down sick with it, and we are instructed to say, that her sister was likewise attacked with it after her tragic death. This important fact did not transpire at the trial, *being one of those remarkable and unaccountable omissions that would almost seem to be premeditated.* The brother, who was a conductor on the Brockville and Ottawa Rail Road, caught the infection while in transit in the performance of his duties. A sister imbibed the disease from this brother, while living in the same house and breathing the same infected atmosphere; and it is not unreasonable to suppose, that deceased would have been just as liable to become infected by it, as the others are proved to have been. But we are prepared to show that her pregnant condition rendered her specially predisposed to it, with the almost certain result of abortion and death succeeding to infection. We have assumed that the woman Burnham was pregnant, because all the medical witnesses examined at the trial declared their belief of it. Even Dr. Church, who would not admit that there were conclusive medical proofs of it, concurred in the general belief that an abortion had taken place. We base our defence upon facts established at the trial, and as it is not our intention to ignore facts, we accept the pregnancy of the woman as a foregone conclusion. Now

we intend to establish, that the condition of pregnancy incurs a predisposition to become infected by small pox; that when infected under such circumstances, abortion is most apt to take place, and finally that death is the usual termination of such cases. In the article on small pox in Ziemssen's Cyclopœdia of Medicine, vol. 2, page 372, the latest and highest authority, we read :—" Weak, sickly persons, and convalescents, as well as pregnant women and those in child-bed, appear also to be particularly predisposed to this form " (hemorrhagic small pox.) The accepted doctrine of the day upon this point appears to be, that the pregnant woman is somewhat less susceptible to contagion than the puerpural or the woman in child-bed. But that both are particularly predisposed to one of the most fatal forms of small pox, we have shown above; hence, in view of this, we find Dr. Tanner, in his " Diseases of Pregnancy," page 362, advising, that " A pregnant woman residing in a district where small pox is prevalent, should be vaccinated or re-vaccinated." As we have established the predisposition, we shall proceed to show the consequences of infection. Reynolds in his " System of Medicine," vol. 1, page 449, the best English work on the practice of medicine, says :—" Pregnancy is a most unfortunate and dangerous complication in small pox. Abortion is very apt to take place." Leishman in his " System of Midwifery," page 359, the latest and best English work on the subject, remarks " Any serious disease, whether acute or chronic, may be the direct cause, (of abortion) and the general symptoms which accompany the original disease may be greatly aggravated by the occurrence in question. Many febrile diseases are extremely liable to lead to abortion, more especially small pox and scarlatina, and in too many of these cases there is a fatal issue." Dr. Tanner, in speaking of the effect of the eruptive fevers on the pregnant woman says :—" Probably small pox is the most to be dreaded of this class of disorders; the confluent form appearing to be uniformly fatal to the foetus, and not unfrequently to the parent." It has been thus clearly shown from the very highest medical authorities of the day, that the woman Burnham, from her special condition of pregnancy, was constantly exposed, while living in that small pox infected house, to abortion and death; yet the suspicion does not seem to have been entertained by her attendant physician, Dr. Moore, or by the gentlemen, who performed the post mortem examination, that any other danger threatened her except the unhallowed arts of the abortionist. In a medico-legal inquiry into the cause of death, where it can be shown that two causes were

operative, is it not of the last importance to make diligent investigation, as to which of the two actually produced it? Nevertheless, in the case under consideration, a most subtile and effective cause of abortion and death, in the woman Burnham, was completely ignored by the medical witnesses for the prosecution. Not a whisper of it from any one of them. It has been objected, that the woman could not possibly have had small pox, because there was no characteristic eruption to indicate its existence. This sage remark may sound like a clincher with the general public, who are accustomed to associate with the idea of small pox a hideous and most unsightly eruption; but with the medical profession, who probe beneath the surface to discover the agency and workings of disease, it will have very little weight. Dr. Copeland in his "Dictionary of Medicine," vol. 3, page 905, says:—"As I demonstrated with respect to scarlet fever when epidemic, that that malady sometimes presented a most dangerous form, in which there was no eruption, and sometimes even no sore throat; so it has been observed that an analogous form of small pox occurs in some severe epidemics, especially in places where all the elements of epidemic severitv concur to produce great malignancy. Thus it is recorded by Mr. Crosse in his "History of the Norwich Epidemic of 1819," that a number of cases of fever with petechiæ, but without any variolous eruption, appeared in May, June, and July, when the epidemic was at the worst, and all terminated fatally." Reynolds in his "System of Medicine," vol. 1, page 439, says:—"Petechial small pox partakes very much of the same character as malignant small pox. Numerous little dark spots, resembling flea bites, especially about the arm-pits and groins, are observable, and the skin in these parts has a greenish yellow hue, very like what we see during recovery from a bruise * * * malignant and petechial small pox are very nearly akin." Ziemssen in his "Cyclopoedia of Medicine," vol. 2, page 352, remarks:—"It (small pox) does not always progress to the characteristic eruption, but the disease may terminate with the initial stage, even before distinct effloresence becomes apparent. And herein the two extremes of small pox meet; the *febris variolosa sine exanthemata*, the most benignant form, and the so-called *purpura variolosa*, the most malignant form, leading to certain death." In confirmation of the fact that zymotic diseases like small pox when attacking the puerpural female sometimes go on to a fatal issue without manifesting any of their peculiar characteristics, we refer to the remarks of Dr. Barnes, admittedly the first

authority in England on the subject. This gentleman during a debate (about which more anon) before the Obstetrical Society of London, this year (1875) says :—" I have seen cases traced to scarlatina poison in which the usual symptoms of scarlet fever were absent; no particular sore throat, no swelling of the glands, no rash, and yet the cases have gone on to a fatal issue." The reader will readily understand the object we have in view in making the above quotations from the writings of the best authorities of the day. It is to induct the public to an appreciative understanding of all the merits of the case. Hitherto it has seen but one side of the " Brockville Abortion Case," because that one side was so simple that any one might understand. It was the old story repeating itself: First, seduction; second, pregnancy; third, the attempt at abortion; fourth, destruction of the foetus, and death of the mother, to wind up the sad tragedy. Perhaps we too readily believe what we have been familiar with. A smash-up on the railroad, or a shipwreck where many lives are lost, will, to many, impart a sort of expectancy that the same kind of accident may occur to them, until familiarity with safety again breeds a feeling of security. The public of late have heard and read so much about criminal attempts at abortion, that when the accusation is made with a certain amount of circumstantial evidence to support it, it is already more than half convinced of its truth, and will turn a deaf ear to rebuttal testimony of an unusual character, requiring somewhat of an intellectual effort to grasp and thoroughly master. This is just the position of the " Brockville Abortion Case." It was perhaps new to the public that a pregnant woman exposed to the infection of small pox was liable to abortion and death, and that she might have a most malignant and fatal form of the disease without the usual characteristic eruption; yet that such is unquestionably the case we have given abundant proof. The case now stands thus: The prosecution says, Sophia Elizabeth Burnham was pregnant; the defence admits it. The prosecution says, that an abortion was induced on her by Dr. Sparham, in consequence of which she died; the defence says, no! you are mistaken, but an abortion was induced in her by small pox, by which she died. The prosecution says, we have proofs that Sparham actually attempted an abortion on the woman—that the symptoms of her last illness, and the facts elicited from a post mortem scrutiny of her remains, clearly show that she died from the effect of injuries received from Sparham in the attempt. The defence says, your proofs will not bear the light of investigation; they are only ap-

parent, not real; when closely analyzed they disprove any such attempt on the part of Dr. Sparham, while the symptoms of her last illness, and the facts elicited from the post mortem examination, unmistakably prove that the woman Burnham did not receive *any* injuries; but that she actually died from the effects of small pox, can be made as clear as any demonstrable proposition in Euclid. The public will see that we make no attempt to shirk the issue involved in the discussion of this question. We are aware that a thousand eyes, jealous of the inviolable claims of justice, will closely test every link in the chain of argument and proof we shall adduce, to see that there is no crack or flaw in it; while that profession to whom we appeal, the grand jurymen in the court of medical science, sensitive of any obscuring of the light of truth, will narrowly scrutinize all the proofs and deductions *pro et con*, and decide with that instinctive impartiality upon which is based their very success in life. In order to furnish the unprofessional reader with a knowledge of some of the symptoms and effects of small pox, so that he may read the medical testimony for the prosecution with profit, we propose to quote a few appropriate extracts from the writings of some of the ablest medical men of the day. When Dr. Moore first saw his patient on the eventful Tuesday afternoon after the supposed attempt at abortion, he found her suffering from pains, like those of labor, and upon examination he detected in the mouth of the womb a substance which he considers to be a portion of an after-birth. Ziemssen in his article on small pox, vol. 2, page 399, says: "In pregnant women we must take care not to confound the pains belonging to the initial stage of variola (small pox) with labor pains, and on the other hand we must not forget that abortion and miscarriage are frequent results of variola." Dr. Moore likewise found blood on the underclothing of the woman, blood in her urine, and blood in the vagina. Reynolds in his "System of Medicine," vol. 1, page 439, in speaking of hemorrhagic small pox remarks:—"There is hemorrhage from some, occasionally from all, or nearly all, of the mucous surfaces * * * the urine is high-colored from blood mixed with it. In the female there is invariably hemorrhage from the uterus, and abortion in cases of pregnancy." Ziemssen in his work, vol. 2, page 371, says:—"In females metrorrhagia (excessive discharge from the womb) is commonly present, being consecutive either to child-birth, abortion, or menstruation." From the same authority, on pages 380, 387, and 388, we quote:—"Croupous pneumonia is not infrequent * * * pleurisy

and pericarditis are tolerably frequent complications * * * complications from changes in the abdominal viscera are not frequent; I have never seen peritonitis except from a local cause." "In the hemorrhagic form of variola, besides the lesions mentioned, we find large or small hemorrhages in all the viscera." "We may find hemorrhages in almost all the mucous membranes." We have for the present enumerated a sufficient number of facts to establish beyond question the very great liability of a pregnant woman, when exposed to small pox, to become infected by it, and after infection her extreme proneness to abortion, attended generally by a fatal issue. We have, moreover, shown, as will be seen hereafter, that the lesions discoverable after death in small pox, were singularly similar to those observed in the deceased woman Burnham. But we do, for the present, leave this portion of our argument incomplete, while we present to the reader the medical evidence for the prosecution, a record of the post mortem examination, a few certificates of prominent medical men touching the question at issue, and the deposition of the woman herself. Thus far we have simply endeavored to give the public a general idea of the effects of the small pox poison on the pregnant and puerpural female, in order that it may judge the medical evidence elicited at the trial in a more intelligible and satisfactory manner. But the class of zymotic diseases to which small pox belongs does not usually affect the pregnant or puerpural woman in the same way, that it does her not undergoing the vital processes peculiar to the pregnant and puerpural condition. As we have seen, it induces abortion in the pregnant, and then in common with scarlet fever, typhus, typhoid, measles, &c., gives rise to a fever, recognized by the accoucheur as puerpural fever; for the proof of which we refer again to the remarks of the justly celebrated Dr. Barnes before the Obstetrical Society of London in May, 1875. His observations are too extensive to quote in full, but we will quote as much as refers directly to the question before us. He said:—"There is the form of fever in the lying-in-woman which is the direct result of infection or contagion produced by some zymotic poison, as scarlet fever, (perhaps the most common of all) or erysipelas, or measles, or typhoid. All these things we see and know, and we cannot for a moment dispute them." * * * "If we look at what a lying-in-woman is, we there see a peculiar constitution, ready to receive poisons, and ready for those poisons to ferment and go on to a disastrous issue, while in another case the poison has no such effect. Then there is a peculiar condition following

labor, where the system has been loaded with matter. There is the involution of the uterus, the discharge of superfluous blood, the milk process coming on—a state just treading on the verge of fever; at any moment the slightest excitement or the slightest noxious matter carried into the blood is ready to ferment and set up fever. It does not matter what the poison is. I think that one observer in his investigations showed that even a case of cancer in a ward was the starting point of a series of puerpural cases. It may be said that a cancer germ will produce nothing but cancer. It will produce fever in a lying-in-woman. * * * This peculiar constitution is one which we may recognize in the range of surgery and medicine as well as obstetrics. * * * We know there are persons who cannot scratch themselves without a fester, all going wrong in a moment. Well, all that condition exists, in an exaggerated degree, in the lying-in-woman —no matter what the poison is, whether you call it scarlet fever, or measles, or anything else. This is more especially observed in cases where the symptoms are manifested earlier than they are in the other class of cases, where the poison arises in the patient's own system. The fever breaks out in twenty-four hours, or in two or three days; whereas, in the other cases, it comes on later. * * * There was a case referred to by Dr. Willson, a gentleman in the country, who believed that infection was due to the skin. I believe it may be propagated by the breath of a medical attendant or nurse; we must all be conscious sometimes of taking in poisons by coming in contact with poisonous patients. * * * A man may walk about charged with infectious disease, and those who are susceptible, with whom he comes in contact, may catch it; those who are not, may, perhaps, have a little dose, which they can throw off, the system being in good working order, and there is an end of it; but if a patient be in the lying-in state, with the blood ready to ferment, such a person would be ready to be attacked. There is the secret of the difference." The above extract from a most eminent authority adds another link to our chain of evidence. It shows how peculiarly susceptible the puerpural woman is to become affected by any of the diseases belonging to the zymotic class, and that, by any of them, a particular form of fever is originated, called puerpural fever. To make these extracts applicable to the case in point, we shall now quote from the remarks of Mr. Coulson, Surgeon to St. Mary's hospital, London, England, in the "Epitome of Braithwaite," vol. 2, page 431:—"The disease, (puerpural fever) with its local effects and constitutional symptoms,

may occur after abortion in the early months." Our position, warranted by the facts and deductions of science, is, that the deceased was infected by small pox, causing abortion and giving rise to puerpural fever, symptoms of blood-poisoning or ichorrhoemia, and death; that the lesions found post mortem were such as we ought to expect in a case of fatal puerpural fever, caused by small pox. On the other hand, the case for the prosecution was, that the deceased woman had received a penetrating wound of the womb, which, causing inflammation of that organ, led to pyaemia, symptoms of blood-poisoning and death. We shall, at the proper time, prove that these deductions are not compatible with the symptoms and secondary lesions, noticed by the attendant physician and post mortem examiners. We shall, we trust, so establish our position, and fortify it by undeniable scientific facts, that no candid and impartial person can refuse to believe that Dr. Eric B. Sparham has been more sinned against than sinning. To the superficial reader, the deposition of deceased might appear to be strong *prima facie* evidence against the doctor as to evil intent, but a closer and more careful examination of that document, especially by the trained medical mind, will lead to a very different conclusion. The points in it that seem to bear strongest against the prisoner Sparham are conjectural and presumptive. With these preliminary remarks, necessary to put the reader on his guard, lest he form hasty and unwarrantable inferences, we proceed to the statement of the case for the prosecution.

The Evidence of Dr. Moore.

This deponent, Vincent Howard Moore, upon his oath, saith as follows:—Knew the late Sophia Elizabeth Burnham. Attended deceased on one occasion about nine months ago. Gave her some physic. She was generally well. Was called to see her on the evening of the 22nd of December, 1874. Saw her then about 7 or 7:30 p.m. Found her pale. Asked her what was the matter. She said she was suffering pain over the lower part of the abdomen or womb; she said she had had an abortion produced. Examined her person and found the vagina moist and containing blood; blood was also on her clothing, covering the genital organs. The mouth of the womb was open, sufficient to admit the tip of my finger, of an irregular shape, and very sensitive to the touch. I found a substance in the *os*, which I removed, and, upon examination, believed it to be a portion of an after-birth. I rolled it up in a piece of paper, and

kept it until evening, and showed it to Dr. Vaux. He did not go upstairs on account of Fred. Burnham's having small pox. I proceeded to treat deceased from that time until her death, in con junction with Dr Weir, a part of the time. Gave half a drachm of tincture of ergot, and in about half an hour the same quantity of the tincture of opium. I treated her for an abortion and for what might follow. Dr. Weir, from Merrickville, saw her on Thursday p.m. He was chosen because he was attending a case of small pox in his own village, and the doctors of this town would not like to attend her on account of their practice; they would not like to go to a house where small pox was. I believe deceased died from inflammation of a part of the contents of the abdomen. My opinion of the cause of death is, that it was puerpural pyaemia or puerpural peritonitis. The cause of the pyaemia was absorption of pus, but the inflammation was caused by the abortion. Was present when the declaration was made, Thursday afternoon. Saw her that morning at 5 a.m. and 12 m. She appeared to be dying. She said, before she made the declaration, that she was going to die. She asked me if I thought so, and I told her that I did think so. I gave Dr. Vaux a detailed and correct statement of my treatment. I passed a catheter on Tuesday, and drew off about 13 ounces of urine mixed with blood. I used my eyes to pass the instrument. I passed it on several occasions, and every morning. J. K. Read, Mr. Richards the lawyer, and myself, were the only parties present when the declaration was made. Several other magistrates refused to go on account of the small pox in the house; therefore, I got Mr. Read, of Burritt's Rapids. The statement was voluntary. After it was read over to her she made some corrections and then signed it. She knew perfectly well what she was doing. Hav'nt the slightest doubt but what she was in her right mind, and had no hopes of living. She became unconscious on Saturday evening. Was not delirious until Saturday evening. I could not understand her. She spoke low and mutteringly. Was attending her brother for small pox. My treatment of deceased was, at first, one drachm of tincture of opium, and again, during the night, a dose of the same. Wednesday, did not give any medicine. On Wednesday evening left a powder of two grains of opium, to be taken if suffering pain. Thursday, did not know whether she took the medicine or not. Was told she had. Ordered wine in the morning, and used catheter; at noon gave wine more freely; more wine at night. In the evening she was seen by Dr. Weir. Left this night,

two powders of opium, of two grains each. She vomited them. Friday morning she was better. On Thursday, ordered ice and brandy, and in the evening, ice-water and brandy. Friday noon, continued brandy and ice. Friday evening left a powder of opium, to be given if required. Saturday, 2 o'clock a.m., found her belly distended, tender on pressure, features pinched, drawn up, pulse 130 to 140. Was suffering pain over abdominal region. Found local discharge. Her expression very anxious. Ordered flannel wrung out of hot water, and tincture of opium, 15 drops, to be put on each flannel every 15 minutes. Take 20 drops of tincture of opium by mouth. Kept up applications until 8:30 a.m. Then applied linseed poultice and tincture of opium, but she complained of the weight. Kept up these until she became comatose. At 6 or 7 a.m., gave an injection to relieve flatulency. Used for this, laudanum and oil of turpentine; then got easier. Tender on pressure until 4 or 5 o'clock p.m. Saturday. Tender on severe pressure. She became spotted. Previous Wednesday morning she became very much jaundiced. Pulse from Tuesday until Thursday not over 100. Thursday morning, pulse 110; in evening, 112; Saturday morning, pulse 134; Saturday at 4 or 5 p.m. offensive perspiration broke out, also hiccough and laborious breathing. Thought on Wednesday, that pyaemia was going on. Did say she died from inflammation of portion of contents of abdomen. Now think, there was pyaemia on Wednesday. Made no treatment for lungs. Did not look for urea. Found blood in urine which was more or less diminished. She said she was about two months pregnant. Examined clothing and vessel, did not find anything of foetus. She thought it had come away, but could not find it. I found the placenta. Difference between membranous dysmenorrhoea and abortion, is as to the membranes; the former is rare and different from what I found. The membrane in dysmenorrhoea is a cast of the uterus. This was one inch and a half long, and half an inch in thickness. Tincture of iron aloes and myrrh, are used to bring on or restore the menses. I was not present at the post mortem. Acute peritonitis, on Saturday morning If the uterus was punctured, there would not be much bleeding from the part. If blood escaped it would coagulate. Did not know how much of uterus was involved. Examined several times. Feared first on Thursday morning for her life, as pulse was rising; breath had characteristic sweet smell. I thought then she was rapidly sinking. On Friday the perspiration became offensive, a sign of danger. The lochia had a peculiar smell.

A careful analysis of Dr. Moore's evidence will lead to profitable reflection. When first called to attend the woman Burnham on Tuesday evening, the day she was taken down sick, he found her pale and suffering from pain in the lower part of the abdomen. A physical examination disclosed blood in the vagina and on the clothing; the os-uteri dilated and sensitive, the urine bloody, and a substance present in the *os* which he thought to be a portion of after-birth. This substance he afterwards declares to be an inch and a half long and half an inch thick. It is not our present purpose to show, that a woman only two months pregnant, could not possibly have an after-birth of such dimensions. Because at that period of utero-gestation, the after-birth is only rudimentary and membranous. We are willing to believe, that in view of all the circumstances of the case, Dr. Moore did not possess his usual *sang froid*, else he would have never used his eyes to introduce a female catheter, except under circumstances of unusual difficulty. No doubt he looked at the after-birth from a *relative* point of view, just as everybody looks at the rising moon, which then becomes magnified. We accept the position, that the woman was pregnant, and had then recently aborted. We are more concerned as to the facts elicited by that first examination. The facts are, that the woman miscarried, that she was suffering from acute endometritis, and that she had bloody urine simultaneously. This last fact is peculiarly significant, and will assist us materially in unraveling the tangled skein of cause and effect. Dr. Thomas, of New York, in his celebrated work on "Diseases of Women," when speaking of the symptoms of acute endometritis, page 206, says :—"Ordinarily the patient complains of pain, weight and dragging in the pelvis; pain in the back, groins, and thighs; and vesical and rectal tenesmus. After three or four days there is usually a discharge of viscid liquid, which rapidly becomes creamy, purulent, and perhaps, bloody; tympanitis, and sensitiveness on pressure, and uterine tenesmus, or bearing down pains. An examination by touch reveals the vagina, hot and dry, or covered by the discharge noted above. The *os* is found to be gaping, the cervix swollen and very sensitive to pressure, the body slightly enlarged, and the whole organ lower than its normal position in the pelvis. * * * In its first stage, acute endometritis consists in an intense and active hyperæmia of the mucous lining of the uterus, which is red, swollen, œdematous, and softened * * * When the second stage has set in, the cavity of the uterus is found to contain an excess of mucous or creamy

looking pus, which may be more or less mingled with blood. If the cervix be involved in this inflammatory engorgement, the mucous membrane of the vaginal portion of the cervix participates markedly, as an examination by the speculum will prove." At this early stage of the case it does not appear that the endometritis was complicated with any observable metritis or inflammation of the body of the womb. To assist the unprofessional reader, we may explain, that "endometritis" means, an inflammation of the inner coating or lining membrane of the womb. It was not until Saturday, the fourth day, that Dr. Moore observed "distension of the belly," and "tenderness on pressure." She "was suffering pain over abdominal region;" "found local discharge." By referring to Dr. Thomas' description of acute endometritis, it will be seen, that it is only after three or four days, that there is a "creamy purulent discharge, with tympanitis (distension of belly), sensitiveness on pressure, and uterine tenesmus or bearing down pains." It would be difficult to find two descriptions of the same condition more exactly alike. For the purpose of more easily comparing them, we present a tabular statement of symptoms:—

Dr. Moore's case—fourth day.	*Acute Endometritis—fourth day.*
Belly distended.	Tympanitis.
Tender on pressure.	Sensitiveness on pressure.
Was suffering pain over abdomen.	Uterine tenesmus or bearing down pains.
Found local discharge.	Discharge viscid, rapidly becoming creamy, purulent, and perhaps bloody.

In Dr. Moore's case the os-uteri was gaping and sensitive to touch; in acute endometritis it is the same. But in Dr. Moore's case the vagina was moist, whereas in the early stage of endometritis it is dry. This difference can be satisfactorily accounted for by the co-existence, in the former, of abortion, which would render the vagina moist. The absence of any positive symptoms of acute metritis until the fourth day, although acute endometritis certainly did exist, is a fact of the very greatest importance, in aiding us to judge, whether mechanical violence or contagion was productive of death. A penetrating wound of the uterus, leading to abortion and acute endometritis, must have simultaneously given rise to acute metritis. But in

the case under consideration, we have abortion, acute endometritis, and no positive symptoms of acute metritis until the fourth day. Now, by referring again to Dr. Thomas' work, from which we previously quoted, page 206, we read :—"The peculiar blood state, attending upon and forming an element of measles, scarlatina, variola (small pox), and roseola, and its influence on all the mucous linings of the body, will sometimes result in general endometritis." Let us reflect. The peculiar blood state, attending upon and forming an element of small pox, to which the woman Burnham had been exposed, will sometimes result in a general endometritis, from which we have shown she was suffering. We have seen that "this peculiar blood state" exerts an influence on all the mucous linings of the body. And we have previously shown from Reynold's "System of Medicine," vol. 1, page 437, that the peculiar blood state of small pox produces "hemorrhage from some, occasionally from all, or nearly all, of the mucous surfaces * * * the urine is high colored from blood mixed with it. In the female there is invariably hemorrhage from the uterus, and abortion in cases of pregnancy." The case now, when summed up, presents the following features: Small pox produces hemorrhage from the uterus, and Dr. Moore found blood in the vagina and on the clothing of the woman. Small pox, while producing hemorrhage from the uterus, will, in cases of pregnancy, produce abortion, and Dr. Moore found, notwithstanding his exaggerated description, an after birth in the os-uteri. Small pox, by its general influence upon all the mucous surfaces of the body, will produce hemorrhage from the bladder, or bloody urine, and Dr. Moore, with his catheter, drew off 13 ounces of bloody urine. Small pox will produce general endometritis, with its gaping os-uteri so sensitive to touch, and Dr. Moore has given us a description of this disease in a very neat, but unpremeditated, sort of way. Leaving small pox out of the question, how are we to account for that bloody urine at such an early period, before even acute metritis had been shown to exist? We ask the candid medical mind of the country to critically examine these facts, and pass an opinion upon the merits of the case. Dr. Moore believed at the time, what afterwards in his evidence he declared he still believed, that on Wednesday the woman had pyaemia, but he does not think she had acute peritonitis until Saturday. We would not be surprised to see pyaemia, or an analogous condition, setting in at an advanced stage of acute peritonitis, but it is somewhat remarkable to see this order reversed, when the same cause—

violence—is supposed to have induced both the pyaemia and the peritonitis. The natural sequence of events, as they would occur in such a case, would be: First, a wound leading to inflammation; second, the formation of pus; third, degeneration of the products of inflammation, originating septic matter; fourth, absorption of septic materials, succeeded by the symptoms and lesions characteristic of pyaemia. Now, although Dr. Moore believes the pyaemia to have been caused by the absorption of pus, he does not inform us how it (the pus) could possibly exist on Wednesday morning, when abortion only took place the night before. In fact, he does not appear to have even suspected that, at that early period, there was any pus in the womb. It did not occur to him that the woman was peculiarly exposed to an attack of puerpural fever from the contagion of small pox, and that puerpural fever and pyaemia are analogous conditions. He shudderingly listens to the woman's tale of horror, instinctively associates the blood exuded, with a wound received, and in a loose sort of a way takes in the general symptoms, marks the jaundiced visage of Wednesday morning, and calls it a case of pyaemia from violence applied to the womb. Of course, to him, in his then state of mind, the conclusion was irresistible. He did not possess the necessary coolness and calm judgement to make a careful diagnosis of the case. But upon a proper diagnosis of the case hung the lives of two human beings. Having once called it pyaemia, he sticks to the text. Notwithstanding he elaborately describes to the court the origin of pyaemia, that it was not exactly due to the absorption of pus but to the ichor arising from unhealthy pus; yet he assumes, that as the woman had pyaemia on Wednesday morning, and as there could have been no pyaemia without pus, there must have been pus present then. But that is the material point to be established. If pus could not be present, by any possibility, at that early date, and pyaemia from violence could only exist after the formation of pus, then the woman could not have had pyaemia on Wednesday morning. It will not do to infer, as the Judge evidently did, that because pus was found *post mortem*, in the cavity of the womb, it must have been present on Wednesday morning or Tuesday night, to give rise to pyaemia. We have shown in our quotation from Dr. Thomas, that pus is found in the cavity of the womb in the second stage of acute endometritis. We have likewise shown, that the woman suffered from acute endometritis; but the purulent discharge of endometritis does not take place for three or four days. While this accounts for the presence of

pus *post mortem*, it will not account, nor does any other intelligible hypothesis account, for the presence of pus in the womb, at so early a period, as to give rise to pyaemia on Wednesday morning. There seemed to be no question, that there was blood poisoning on Wednesday. Dr. Moore called it pyaemia from absorption of unhealthy pus; Dr. Church called it puerpural fever from contagion of small pox. Now, we intend to prove, that there could not possibly have been pus present on Wednesday, and consequently there could not have been pyaemia then, so that by the argument of exclusion Dr. Church was right; for of two possibles, where one is shown to be inadmissible, the other is accepted as true. Upon the supposition that the woman died of pyaemia, we must first have a local suppuration to start with. Reynolds in his "System of Medicine," vol. 1, page 203–4, says:—"Now, in reviewing the above series of cases in which specially pyaemia is apt to occur, several facts come into prominent relief. It would seem, that in the first place in such cases, pyaemia is almost invariably, if not always, preceded by some local suppuration, and that this suppuration is erysipelatous, gangrenous or otherwise unhealthy." And, Dr. Paget in his "Surgical Pathology," page 248, in speaking of the first appearance of suppuration in healthy wounds, remarks:—"In amputation through healthy tissues, free suppuration does not take place for three or four days." In order to establish this point from independent sources, we now quote from Reynold's "System of Medicine," vol. 1, page 217:—"In puerpural cases, pyaemia comes on usually between the third or fourth and tenth or twelfth days after labor." And Dr. Barnes, in the article previously quoted from him, when speaking of the time of seizure in cases arising from contagion of zymotic diseases, says:—"The fever breaks out in twenty-four hours, or in two or three days, whereas, in the other cases (from self-infection) it comes on later." All these facts dovetail together so admirably, that it is impossible to resist the conclusion, that in a puerpural woman with symptoms of blood poisoning on the second day, the origin of the infection giving rise to them exist without, and not within, the woman. Another fact in this connection worthy of comment, is the conduct of Dr. Moore himself, whose nasal organs seem to have been remarkably sensitive, for he detected the peculiar smell of the lochia, and the offensive perspirations, but not a word is said about any unhealthy discharges from the womb on Wednesday. Offensive discharges must have taken place if pyaemia existed. But in his detailed account of his

treatment of his patient, no mention is made of vaginal injections. This would have been a most discreditable omission on his part, had there been unhealthy and offensive discharges from the womb at an early date. And as Dr. Moore in his evidence does not speak of any vaginal discharges until Saturday, which we might infer to have been different from the ordinary lochia, we have a right to assume, that none existed until then. On Saturday, Dr. Moore says, "She became spotted." In the absence of any specific description of those spots, we very strongly suspect, that they point to that most dangerous of all forms of small pox, viz., "purpura variolosa"—the spots being cutaneous hemorrhages, by which form of the disease, Ziemssen says, page 354:—"Drunkards, pregnant women, or lying-in-women, succumb most readily among those previously healthy." Before closing our remarks upon Dr. Moore's evidence, we would again refer to the condition of the woman on Saturday, when Dr. Moore considers "acute peritonitis" set in, but which we diagnose as "acute metritis." We have shown in our tabular statement, that the symptoms were similar to those of a case of acute endometritis of the fourth day. But, for obvious reasons, we did not then take into account the graver constitutional symptoms, viz., "pinched features," "drawn up," "pulse 130 to 140," which enter into Dr. Moore's description of the case. To differentiate an attack of acute endometritis alone, from an attack of acute endometritis progressively involving the whole parenchyma or substance of the womb, would be to find, in the latter, a greater amount of tenderness on pressure, a greater enlargement of the womb, with just such additional symptoms as "pinched features, rapid pulse, &c.," which Dr. Moore has portrayed to us, and which he attributes to the supervention of acute peritonitis. But why Dr. Moore should, subsequent to the post mortem examination, persist in affirming that his patient suffered at all, from an attack of peritonitis, is a mystery to us. We are especially anxious, that the reader would bear in mind the progressive nature of the attack; how, upon Dr. Moore's first examination we have the evidence of hemorrhages from mucous surfaces, viz., the bladder and vagina, associated with a miscarriage and acute endometritis, and that on the fourth day we have the symptoms still of endometritis, together with the more alarming constitutional disturbance, indicating involvment of the parenchyma of the womb. A recollection of the above sequence of events, will materially assist the reader in comprehending the mysterious workings of the disease, by which the woman came to her death. For the present, we pass

on to the evidence of Dr. Morden, who, assisted by Dr. Brouse, performed the post mortem examination on the body.

Dr. Morden's Evidence.

This deponent, John Howell Morden, upon his oath saith as follows:—I am a Physician and Surgeon. On the 30th of December, 1874, in conjunction with Dr. Jacob E. Brouse, I made a post mortem examination of the body of the late Sophia Elizabeth Burnham. The body, from external appearances, seemed to have been well nourished, and free from marks of violence. I found a white, frothy exudation from the nostrils. The lips and teeth covered with dark sordes. The abdomen was blue and distended. The hair about the external genitals was matted, and a purulent discharge was oozing from the lips of the vagina. I examined the brain, and found it healthy. I then opened the body, and no gas escaped from the abdomen. The front portion of the lungs looked healthy, The lower and left portion of the left lung was largely consolidated or hepatized. A smaller portion of the lower and back portion of the right lung was in the same condition. On cutting into the lungs, there was an oozing of bloody fluid on the cut surface of the consolidated portion, and small, dark spots appeared throughout the other portions of the lungs. The pleura was not adherent, and the cavity of the pleura contained about a pint of bloody fluid. The heart appeared healthy, and about the usual size. The cavities of the heart were all empty, except the right auricle, which contained a small clot of dark blood. The covering, or pericardium, of the heart did not contain more fluid than is usual. I then tied both orifices of the stomach, and removed it. I found the liver healthy, the lower part of it was discolored, where in contact with the intestines. The gall-bladder was full, and free from stones. The spleen was healthy, though of a dark and congested appearance. The pancreas was also healthy. The diaphragm was pushed up. The peritoneum was dark in color, and smooth. The intestines were dark in color, and distended with gas. The intestines contained some ingesta. A portion of the small intestines showed evidences of recent inflammation. The kidneys were large, and had a congested appearance, particularly the cortical portion. In looking into the pelvis, it appeared unusually dark in color. The bladder was flattened on itself. The womb was larger than usual, and on the base, or fundus, of the womb there was an ulcer of about half an inch in diameter. I

then removed the contents of the pelvis, and opened the bladder, and found a few small clots of blood in the bladder, and the lining membrane of the bladder presented a number of ecchymosed spots. The vagina was dark and moist. The *os* of the womb was an irregular transverse opening. The body of the womb was thicker than usual, and the cut surface presented some yellow points. The womb contained about two drachms of pus, and the inner surface was not smooth. There was a small opening from the cavity of the womb to the ulcer on the outside of the fundus, passing through the wall of the womb. I afterwards examined the stomach and its contents. The stomach itself was dark in color, but otherwise appeared healthy. The stomach only contained a small portion of fluid of a peculiar character. The opening through the wall of the womb was not a natural one, but an artificial one. The opening in the womb was caused by something being introduced through the vagina into the womb. The substance which made this opening must have been hard. There must have been force used to impel any substance through the walls of the womb. My opinion is, that deceased died of pyaemia or blood poisoning. The exciting cause of this pyaemia, in my opinion, was the condition of the womb as described. The womb, under certain circumstances, will generate pus, but a natural, healthy womb will not. Made no objections to other doctors being present at the post mortem. Left lung more consolidated than the right. The consolidation was not continuous. Where the ulcer was on the fundus, looked like a white spot with a small opening through the centre. The canal leading through was lined by a white material. No fluid around ulcer of the outer part of the womb. The aperture must have been made by a small instrument, used with considerable force. The inner surface of the womb was uneven. No natural cause could have produced the opening. Am aware that a womb has been removed and the patient lived. A wound through the walls of the womb, as stated, would not necessarily cause death. There was no trace of blood on the outside of the womb. Would not say positively that death was caused by the wound of the womb. Could not say positively that the pyaemia was caused by the wound. Made up my mind that abortion had been produced by the introduction of an instrument. The womb had been in a high state of inflammation previous to death. The wound indicated an arrest of the healing process. The opening was the size of a small straw. I thought the womb might have been impregnated. Ergot would be proper, if

there was much hemorrhage. I did not discover anything else to cause death, except the wound as if produced by an instrument.

We have now given the evidence of the two most important witnesses for the prosecution, both of whom concur in the opinion, that the woman died from blood poisoning due to pyaemia. As we have carefully examined the evidence of Dr. Moore, the attendant physician, we shall proceed now to review that of Dr. Morden, the post mortem examiner-in-chief. A careful scrutiny of the post mortem appearances, as detailed by that gentleman, must convince any medical man, that the woman Burnham died of blood poisoning. Two theories have been advanced as to the nature of this blood poison. The one, that it was generated within the body of the woman, and by absorption, gave rise to what is known as surgical fever or pyaemia. The necessary factors, which constitute this disease, are a wound that has passed into the suppurative stage; pus, which has become unhealthy from some unknown cause; absorption of septic materials originating from such unhealthy pus, and consequently the existence of the disease called pyaemia. The other theory is, that the woman Burnham, while in the pregnant condition, became exposed to a specific poison called small pox, which, being absorbed into the system, produced abortion. The generative organs then became a nidus, or hot bed, for the further development and extension of this specific poison, which gave rise to a disease known as puerpural fever. In this connection then, pyaemia may be considered as arising from self-infection through sources exclusively originating and existing within the body, while puerpural fever is produced from contagion from without. The one is autogenetic, the other is heterogenetic. The one necessarily pre-supposes an injury or wound to exist, with an unhealthy suppurating surface, the cause of which unhealthy suppuration may be unknown. The other does not require an injury or wound to have been received, or any suppuration at all, but it requires the pregnant or puerpural condition, and exposure to some specific poison, as scarlet fever, erysipelas, typhus, or small pox. We are aware that some of our most eminent medical men affirm that puerpural fever may arise from decomposing coagulæ, or a putrid placenta, but with such cases we have now nothing to do. Our duty is simply to distinguish between a pure case of surgical fever or pyaemia from a wound, and a pure case of puerpural fever from contagion. It is well known to scientific men that puerpural

fever and pyaemia are analogous conditions. Schroeder in his article on puerpural fever, page 331, says :—"Puerpural fever is quite the same state which is frequently observed in surgical wards, and designated as erysipelas, pyaemia, ichorrhoemia, and septicæmia." Prof. J. Y. Simpson in his essay on surgical fever, or pyaemia, page 155, remarks :—"Surgical and puerpural fever are identical in nature and intercommunicable." Although a specific difference does not actually exist, yet their modes of inception are different, there is a certain recognizable difference in their initiatory symptoms and period of attack, which for diagnostic purposes are sufficiently characteristic. The question remains for us to decide, and an important question it is, whether a given case of pyaemia, or puerpural fever, originated from self-infection in consequence of a wound being received, by which a life was lost; or whether it arose from contagion from exposure to a specific poison, as small pox. Science ought to be competent to decide this question, and we have no doubt she will do so, in the present case, in a most satisfactory manner. In a woman presumably healthy as Miss Burnham evidently was, for Dr. Moore testified to it, and Dr. Morden declared the body to be "well nourished," pyaemia from injury to the generative organs, in the absence of any epidemic, as small pox, is extraordinarily rare. To establish this point we must again quote from Karl Schroeder, the greatest living authority on gynaecological subjects. In his article on puerpural fever, page 352, he says :—"It cannot be denied, that at times, when lying-in institutions are free from epidemic diseases, even very considerable injuries, as well as the retention of the membranes and of the placenta, are not attended by unfavorable results. In the absence of an epidemic, *there is hardly a pronounced case* of ichorrhoemia or septicaemia, which we could easily attribute to self-infection." Dr. Barnes, while holding to the opinion that puerpural fever is sometimes autogenetic, yet affirms a view, which, as far as the present case is concerned, concurs with the German writer. Dr. Barnes says :—"I will now only sum up my conclusions in reference to the questions submitted by Mr. Spencer Wells. Did you ever see a case of puerpural fever which is not really a case of scarlatina, or rubeola, or erysipelas, or traumatic fever, caused by the bruizing or tearing of parts? I do not think there is any fever caused by bruizing the parts. If there be a little scratch, no matter how small, and the poison is conveyed in that way, that is a different case. That is the way wounds act so badly, no doubt." The above quotations speak

for themselves, and demand very little comment. If the opinion of those gentlemen be worth anything, and we think it is supreme on this question, the very great probabilities are in favor of the view, that the woman came to her death from contagion. Our position is, that it is quite possible to decide whether a given case of pyaemia or puerpural fever was caused by an injury alone, in the absence of contagion; or whether it was due to contagion alone, in the absence of an injury; or whether the injury and contagion were associated. Puerpural fever caused by a contagious disease, as small pox, will be recognized by certain pathognomonic symptoms and effects, peculiar to the acute specific disease, producing it. This position is fortified by an authority no less than Dr. Leishman, who in his article on puerpural fever, page 669, thus writes:—"We may here advert, however, in a single word, to those cases in which the symptoms of some other specific disease precede or accompany puerpural fever. The most important of these are scarlet fever and small pox; and when a patient in the puerpural state is unfortunate enough to become the subject of one of these disorders, the usual course observed is, that the characteristic symptoms—eruptive and otherwise—of either disease assume a more malignant type, and are generally merged in signs of more serious and fatal import, which spring from the puerpural state." Now, we have previously shown in a quotation from Ziemssen, that frequently the most malignant and fatal form of small pox, "purpura variolosa," is combined with the benignant form called "febris variolosa sine exanthemata," and marked by no eruption, but attended with great fatality; so that the fact of no characteristic pustular eruption having been observed, would not militate against the assumption, that the woman had small pox of the most malignant type, and hence, in accordance with Dr. Leishman's idea as expressed above, provided always certain other symptoms and effects sufficiently diagnostic of the disease were noticed, to leave the question without a reasonable doubt. From the evidence of the medical men, who saw the woman during her last illness, and of those who made the post mortem examination, it is quite evident, that the idea never occurred to them, that small pox could possibly produce those symptoms and lesions, which, grouped together, they unite in asserting to be pyaemia. Hence, how easily might *such men* overlook the eruption of "petechial small pox," distinguished by "numerous little dark spots resembling flea bites, especially about the arm-pits and groins;" or think, if it were noticed at all, that the "greenish yellow hue" of the skin in

these situations was due to post mortem changes? And it is only inadvertantly, as it were, that Dr. Moore informs us that on Saturday "she became spotted," which, taken in connection with the other symptoms, point clearly to the purpuric variety of the disease. But, to fortify our position still further, that small pox in the puerpural female will give rise to puerpural fever, we again quote from Dr. Leishman, page 656:—"A series of facts of surpassing interest seem to show that the puerpural poison may be developed from other poisons of a similar kind, which has led some to conclude, that the cause is less specific in its nature than a septic influence operating upon the peculiar conditions of the puerpural state. One or two examples illustrative of this proposition may be adduced. A patient was admitted by some oversight into the wards of the Dublin Lying-in Hospital, while laboring under typhus fever; but the error having been discovered, she was removed in a few hours. In the beds on the right hand and on the left of this woman, were two lying-in women; both were attacked with puerpural fever, and both died. * * * Nothing, perhaps, is more clearly recognized in regard to the etiology of the disease than the great danger which a woman incurs, who, during the puerpural period, is exposed to the contagion of scarlet fever. Although, during the continuance of pregnancy, nature seems to throw a mantle of protection around a woman in so far as *ordinary* contagious influences are concerned, she is no sooner delivered than she becomes remarkably susceptible; and when attacked, whether the disease be typhus, scarlet fever, or even measles, the symptoms often assume the fearful characteristics of puerpural fever. Small pox, contracted under similar circumstances, is well known to be almost invariably fatal." This opinion of Dr. Leishman that pregnant women are protected from *ordinary* contagious influences does not conflict with the statement already advanced and supported by quotations from the writings of other eminent men, that women frequently abort from the effects of acute specific diseases, and that they are specially predisposed to the hemorrhagic form of small pox. Neither will it affect the particular case under consideration, as the woman Burnham was exposed to the infection of small pox in no ordinary manner. Residing in the same house with a small pox patient, she was constantly breathing the tainted atmosphere, or, as Dr. Barnes puts it:—"Many women will succumb at once, or rapidly, to a single dose, no matter how small it may be, but others can resist to a certain extent; their excretory

organs may be in good working order, and they may throw off a moderate dose, or two moderate doses; they cannot go on surviving repeated doses." Again, small pox is not an ordinary contagious disease, for all classes of people, and every age, are peculiarly susceptible to it. Doubtless Dr. Leishman is contrasting the susceptibilities of pregnant with those of puerpural women. Pregnant women resist the ordinary contagious influences, but puerpural women are peculiarly susceptible to every contagious influence. That this is his meaning is certain, when we find him stating, page 668 :—"Cases (of puerpural fever) have been recorded in which it has come on before delivery." To render the position assumed by the defence as impregnable as possible, we would refer the reader to a discussion, which recently took place at the Obstetrical Society in England, on the nature of puerpural fever, in which the principal leading medical men of the country were engaged. The discussion was published in the London *Lancet* and thence copied into the *Canada Lancet* of June, 1875. After Mr. Spencer Mills had decided to class puerpural fever with pyaemia and septicaemia, the report says :—"In so far as the discussion has taken place, those who have taken part in it have abjured, rather than maintained, the view, once generally held, that puerpural fever is produced by a specific morbid poison." The objection raised against the contagious theory, that many puerpural women have been exposed to the poison of scarlet fever, measles, &c., without contracting puerpural fever, was met, says the editor of the London *Lancet*, effectively by Dr. Newman, who "pointed out that there are certain conditions which favor infection with the poison in puerpural, just as there are conditions which predispose to infectious or malarious diseases in the non-puerpural state; and the causes of this predisposition in the puerpural state indicated by Dr. Newman are the very same conditions which act in a similar manner in the non-puerpural, viz., exposure to sewer gas in badly drained houses, and depressing emotions. One other predisposing condition he named which is peculiar to the lying-in woman—the activity of the vital processes in the pregnant and puerpural state." Before proceeding with our extract from the *Lancet*, we would revert to the evidence of one of the medical witnesses for the defence at the trial, who declared the seduction of the woman, by its depressing mental effects, to be the predisposing cause of the disease of which she died. This idea is carried out by Dr. Leishman in his recent work on Midwifery, page 658 :—"It has been repeatedly noticed that depressing mental

emotions exercise a very marked effect in the manifestation of puerpural fever, so that women who have been seduced are more prone to the disease than others. Several of the worst cases I have seen, observes Dr. Churchill, were mainly attributed to this cause." It will be thus seen that the woman Burnham was especially predisposed to puerpural fever from contagion, in consequence of her seduction giving rise to depressing mental emotions, and her constantly inhaling a small pox infected atmosphere. These facts are of peculiar importance in considering the strong probability of her becoming infected, because two powerfully predisposing causes were united to render her residence, in that small pox house, one of extreme hazard. But to proceed with our quotation from the *Lancet*:—"The well worked out statistics of Dr. Braxton Hicks bear strongly on the etiology of the affection, for in spite of the difficulty of tracing contagion in such a populous city as London, and especially amongst the poor, yet he pointed out that eighty-nine or ninety per cent. of cases of puerpural fever could he traced to *contagion from specific fevers*, or to decomposing materials in the uterus, thus leaving only 10 or 11 per cent. in which the cause was difficult to trace." Now, Dr. Weir, as will be seen, testified positively, that acute specific diseases would only originate their kind, and not puerpural fever. That small pox could only produce small pox, and nothing else ; scarlet fever only scarlet fever. Of course, if small pox could not originate puerpural fever, the whole diseased condition of the womb would be unaccounted for, except upon the supposition that an injury had been received, leading to inflammation, absorption of pus, and death by pyaemia. How mistaken Dr. Weir was, the above extracts show. His evidence was fatal to the prisoners, but it was incorrect and unscientific. The Judge laid great stress upon Dr. Weir's evidence, and charged the jury in accordance therewith. Of course the evidence looked plausible enough to an unprofessional medical man, that like begets like, and therefore the Judge, who could not be expected to know better, felt justified in turning a deaf ear to testimony, that asserted that small pox would produce something else besides small pox. Truly, as Dr. Barnes remarked :—" We are governed by the ignorance of the law and the ignorance of the Judges." The nub of the whole question resolves itself into this:—Will exposure to small pox produce abortion in the pregnant woman, followed by a disease which, during life and after death, might be easily mistaken for pyaemia? If that question be answered in the affirmative, and surely it will not now be answered

in the negative, our efforts to establish the complete innocence of the prisoner Sparham of the crime of murder will be easy enough. We shall now quote from the Judge's charge in relation to the law. His remarks at this particular stage of the investigation will be found interesting and suggestive. He said :—"Death, though from pyaemia, might be from small pox. The law says, if a wound be inflicted, and death results, no matter about the treatment. But if, besides the wound, there is another cause, as from pus generated, which might be from small pox. If that is so, and death was really caused by small pox, then we could not say that the wound was the cause of death, as the disease might occur naturally. Therefore, I was anxious to give great time, and would not finish the case last night. Now, the evidence of the doctors for the crown says there was no small pox. But could small pox produce such effects? Dr. Weir says it could not. Dr. Grant says it could. Dr. Church says it could. He says he has it from high authority, and from books which say that it could. Dr. Grant, who has had a long experience, says he has never known a case where small pox produced the effect, from which it is said the deceased died, yet he believed small pox was communicated to her by her medical attendant. The whole of Dr. Grant's evidence did not touch the cause. Regarding treatment, he spoke of advanced practice; that other things ought to have been done, according to cause of death. He may be right or wrong, but it has no bearing upon the case. If the injury had been done, no matter what the treatment is, whether skillful or not, the result is the main thing. Dr. Church's evidence is the only one which positively says the deceased died from contagion of small pox. My own impression is, that there is great difficulty to understand their evidence. They are called on to criticize in evidence upon others evidence, so that they speak from evidence given, and not from seeing the case. Having heard the evidence, they give their opinion as to what they hear. The most important effect they left out, whether the injury was done by an instrument. They did not change that. The witnesses for the crown state from what they saw. But I cannot understand what Dr. Church's views were. We ought to be careful how we receive evidence of that nature, for it was a criticism, and not as a result of his knowledge. Dr. Church had not heard any conclusive medical proof that there was a child. Dr. Moore says there was a child, but having made a search, did not find it; yet he thinks there must have been one from the state of the case. There are two important points

to be noticed, pus in the womb, and pyaemia. About the pus in the womb, Church says there is no evidence to show when it came there. Of course not; but as the disorder arose from that, it need not be fixed when it came. Regarding the wound, he says he is not satisfied it was produced by an instrument. All the witnesses for the crown state that death resulted from pyaemia. Dr. Church says, not so! but it came from small pox. A reason given by him for there being no pyaemia was, that there were no chills and perspirations, which he says, almost invariably, if not always, attend that disease. As to the hole in the womb, he believed it might come from an abscess; that abscesses sometimes produce perforation of the womb. His opinion is that death was not from the wound, but from contagion, and that great care was requisite to prevent it. But all care had been taken by Dr. Moore."

It is plain, the Judge did not understand the views of the witnesses for the defence, for in meeting the objection raised by Dr. Church, "that there was no evidence on Wednesday morning, when symptoms of blood poisoning were first noticed, that there was any pus in the womb, as a starting point for pyaemia," he says, "of course there is no evidence to show when it (pus) came there, but as the disorder arose from that, it need not be fixed when it came." But that was the very point at issue, and absolutely necessary to be proven. This was a most vital point, because it involved the possibility of the existence of pyaemia at that early date. The witnesses for the defence testified that the disorder could not possibly arise from that, although the Judge takes it for granted that the disorder *did* arise from that. It has been shown, that pus from a wound through healthy tissues could not be formed in less time than three or four days; that then it must become unhealthy, after which absorption must take place of the septic materials, before certain constitutional symptoms significant of blood poisoning could be manifested. It was declared by Dr. Moore, that the constitutional symptoms characteristic of blood poisoning were noticed by him on the morning after the abortion, or about forty hours after the infliction of the supposed wound. That, which could only take place in three or four days, could not possibly take place in less than two days. And that, which did appear in less than two days, could not possibly be that, which makes its appearance only after three or four days. If pus only forms in three or four days from a primarily healthy wound, and pus be a necessary factor in the origin of pyaemia, then the

symptoms of blood poisoning, which were manifested in less than two days, could not have originated from that (pus) which had no existence; hence, the symptoms of blood poisoning noticed on Wednesday morning were not due to the absorption of pus from a wound. If not due to that, then to what might it be attributed? The witnesses for the defence said, as we now say, that it arose from the contagion of small pox. We are aware, that in amputation of the thigh, for instance, for disease of the knee joint, the patient, if placed in unfavorable conditions as to epidemic influence, may have an abundant discharge of unhealthy pus in less than two days, leading to pyaemia, but in such cases there is actual disease of the affected member, and such changes had, previous to the operation, taken place in the limb, that led to the rapid formation of unhealthy pus. But the woman was healthy, and the womb was healthily performing its vital functions, so that the only grounds the objector can possibly have now are that the wound received on Monday afternoon, by absorbing the small pox poison, resulted in her death. If this be admitted, then our labor, so far, will not have been in vain, for death actually resulted from the contagion of small pox. But was there a wound for the absorption of small pox poison? Such was not proven, it was only assumed by the post mortem examiners. Did these gentlemen ever see a perforation of the womb from natural causes? and how would they distinguish between such an opening and one produced artificially while the womb was sound, and observing it only after the womb had become softened and gangrenous? They saw the opening through the womb eight days after its supposed artificial production, and without assigning a reason, they say dogmatically, "the opening through the wall of the womb was not a natural one, but an artificial one." Why? give us a reason, gentlemen, for your opinion. We intend to give a reason why there was no wound inflicted, and that the opening must have been a natural one. Dr. Morden noticed a "purulent discharge oozing from the lips of the vagina." Whence did that discharge come? Can any one believe it came from a penetrating wound of the womb, "the size of a small straw." Besides it must not be forgotten that the opening through the womb, and the ulcer on the fundus, through which it passed, were lined by a white material, and could not have been recently discharging pus; nevertheless, a purulent discharge was oozing from the vagina, and about two drachms of pus were found in the cavity of the womb, while the "inner surface of the womb was uneven." All this would indicate, that there had been

inflammation, softening, and partial destruction of the endometrium or lining membrane of the womb. And as it is the province of mucous membranes to generate pus when inflamed, the oozing of a purulent discharge from the vagina is accounted for, as well as the presence of pus in the cavity of the womb after death. It is simply absurd to suppose that all the pus and oozing observed by Dr. Morden came from a small opening lined by a white material. "The body of the womb was thicker than usual, and the cut surface presented some yellow spots." This would indicate an advanced stage of metritis or inflammation of the body of the womb. Dr. Gross in his "System of Surgery," vol. 2, page 842, says:—"Inflammation of the body and serous covering of the uterus is most common in females during the first eight or ten days after parturition. It sometimes betrays an epidemic tendency, and rapidly passes into suppuration, softening, or even gangrene. The pus that is poured out in such cases may be situated in the parenchymatous structure, in the uterine cavity, the subserous cellular substance, between the folds of the broad ligaments, or finally in the venous and absorbent trunks, or simultaneously in all these parts. In most of these localities in occurs in the form of yellowish looking globules; but cases are observed in which it is collected into distinct abscesses, which are, however, never very large, and which manifest a disposition, sooner or later, to burst into the vagina rectum, pelvis, or urinary bladder. The pus is generally blended with a good deal of lymph, and is sometimes highly offensive." We may mention here, that Dr. Brouse declared the pus in the womb to have been very offensive, and that he and Dr. Morden declared the womb to have been in a state of gangrene. In the above quotation from Dr. Gross we learn that inflammation of the womb sometimes comes on epidemically, or from contagion, that it then rapidly passes into suppuration, softening and gangrene; that the pus may be situated in the parenchymatous structure or body of the womb; that it appears in the form of small yellowish looking globules (corresponding to Dr. Morden's "cut surface presenting some yellowish points"); that the pus sometimes collects into distinct abscesses, never large, and that these abscesses may burst into the pelvis. The reader who has patiently read the previous portions of this pamphlet will recollect, that in our review of Dr. Moore's evidence, we shewed that the woman Burnham only had acute endometritis at his first examination, while acute metritis combined with acute endometritis did not occur until the fourth day. We inferred from this, that the cause

was progressive in its operation, and must have taken effect first on the endometrium, and then gradually invaded the body of the womb; whereas, if the cause had been a penetrating wound of the womb, acute metritis would have set in simultaneously, and gone hand in hand with acute endometritis. We likewise shewed from Dr. Thomas that the peculiar blood states attending upon and forming an element of small pox, will sometimes result in general endometritis. To complete our argument, and render our position impregnable, we quote again from Karl Schroeder in his "Essay on Puerpural Fever," page 334 :—" If the endometritis is more intense there are usually also changes in the uterine parenchyma which constitute metritis. They consist of an œdematous condition, and cloudy swelling of the whole organ. The uterus is then badly contracted, and is so soft that the pressure of the intestinal coils resting on it leave their impression. * * * If the ichorous endometritis extends deeper, a portion of the uterus also mortifies (putrescentia uteri), and this may lead to perforation into the abdominal cavity." But it may be asked why should the opening be in the fundus of the womb. Dr. Copeland in his "Article on Puerpural Fevers, vol. 4, page 577, says :—" Changes in the uterus were most remarkable in the part where the placenta was attached, whether those were seated in the substance of the organ or in the veins and sinuses." Dr. Churchill in his "Article on Puerpural Metritis," page 636, remarks :—" This softening generally commences at the inner membrane and penetrates more or less through the uterus, According to Dr. Ferguson's experience, the point of insertion of the placenta is the most ordinary seat of all uterine lesion, whether of abscess, softening or plebitis." Boivin and Duges, as quoted by Dr. Churchill, says :—" Pus is sometimes found in the substance nearer to the exterior than the interior; thus pus collects into distinct abscesses from one to five inches in diameter." This last fact accounts for the ulcer on the fundus, which was half an inch in diameter, the diminished size of which being in correspondence with the early period of pregnancy. Let the reader turn now to Dr. Paget's "Surgical Pathology," page 293, and read:—"Thus, also, sometimes as an abscess approaches the surface the thinned skin dies, and, not like an inflamed part, but as one deprived of nutriment, it shrivels and is dried. Such sloughing is more common in perforating ulcers of the stomach and intestines, in the course of which, when ulceration has destroyed a portion of the subperitoneal tissue and its blood vessels, the peritoneum, hitherto fed by them, perishes, and is

separated as a grayish or yellowish white slough." What makes the above quotation especially valuable is the fact that the uterus, like the stomach and intestines, is covered by the peritoneum, and a perforating ulcer of the former would behave similar to one in either of the latter, with the difference that being less chronic the perforation would be uniform in size, and not larger at the base than at the apex. The white material lining or covering the ulcer on the fundus was the perished peritoneum and subperitoneal tissue, separated as Paget says as a "grayish or yellowish white slough." Dr. Morden says a white material lined the canal, but does not say whether it was similar to that lining the ulcer. But Dr. Brouse, his associate in the post mortem examination, explains what was in the canal, for he says:—"pus was from the outside to the inner of the canal." We contend that there was a perforating ulcer of the womb from natural causes, because its very appearance indicated that there was gradual death or necrosis of the part. Now, the facts elicited by our quotations are of peculiar significance, and point to but one conclusion. By them we learn, that the contagion of small pox will produce abortion in the pregnant woman, and hemorrhage from the uterus vagina bladder and other mucous surfaces; that it produces endometritis and progressively metritis, passing into suppuration, softening, and gangrene; that the suppuration is ordinarily observed in the form of little yellowish spots, but that it sometimes collects into distinct abscesses found more to the external than the internal surface of the womb; that the softening leading to perforation commences at the inner membrane and penetrates more or less through the substance of the womb; that the point of insertion of the placenta is the ordinary seat of tohse advanced changes characteriz d by softening, abscess, and perforation; and that this was the very spot where the supposed wound in the woman Burnham was found; and finally, the appearance of the ulcer on the fundus indicated most clearly a slough from gradual death of the part, as is most happily described by Dr. Paget, in perforating ulcers of the stomach. But we have not yet completed our case, and will prove, beyond the shadow of a doubt, that no penetrating wound of the uterus could have been received; that the woman actually died from the effects of small pox, and that consequently Dr. Sparham is innocent of the crime imputed to him. Dr. Morden says in his evidence that "the peritoneum was dark in color and smooth." It will be seen by the deposition of the woman Burnham, that Dr. Sparham made his last examination on Monday, and

after that examination she walked home all right, felt no uneasiness that night, but on the following day she was in great pain. Nevertheless, we are asked to believe, that during that last examination on Monday, he forced an instrument through the fundus uteri, rupturing in its passage the visceral peritoneum and enlarged uterine blood vessels, with no history of pain until the following day, no immediate large loss of blood, no prompt inflammation of the body of the womb, and no history at all of acute peritonitis with its absolutely necessary effusion of plastic lymph or serum. The idea, to us, is simply preposterous. Dr. Holmes in his "System of Surgery," vol 2, page 405, says, if rupture of the peritoneum "occur in a portion attached to a pregnant uterus, the probability is that hemorrhage will be excessive, and it may prove fatal." Dr. Gross in his "System of Surgery," vol. 2, page 841, says :—"The great sources of danger in wounds of the uterus are hemorrhage and peritonitis." He again says, "wounds of the uterus during pregnancy may in general be easily detected by the escape of the amniotic fluid and the profuseness of the hemorrhage." Dr. Leishman in his "System of Midwifery," page 660, remarks :—"In ordinary peritonitis, adhesive lymph is poured out, as an attempt on the part of nature, barring the further progress of the malady, by gluing the parts together." Now, hemorrhage, if it occurred at all, must have been primary, and would have taken place immediately after the infliction of the wound, but there was none until the following day, and then only as a necessary consequence of the abortion. Besides, Dr. Morden did not find the slightest trace of hemorrhage in the vicinity of the supposed wound. But the peritoneum was smooth, and there was no gluing of the parts together, neither was there any serum found in the pelvis. These facts are clearly demonstrative, that no peritonitis existed, which must have occurred, if a penetrating wound of the fundus uteri had been inflicted, more especially, as it is contended, it lighted up the most intense inflammation of the body of the womb. A wound, that was sufficiently serious to produce metritis, would be much more likely to produce peritonitis, because the peritoneum is far more sensitive and ready to take on inflammatory action from injury, than the parenchyma of the womb. Thus it stands, as plain as the noon-day sun, that a wound of the uterus and visceral peritoneum, sufficiently severe to produce acute metritis, would necessarily produce at the same time, and much more readily, acute peritonitis. Yet, while the post mortem examination disclosed every evidence of metritis of the most aggravated

character, there was not the slightest indication of peritonitis. The proofs of previous inflammation in a part, as observed post mortem, would be to discover the productive effects. The products of inflammation in a serous membrane like the peritoneum, would be coagulable lymph or serum, or both of them. Not the least trace of either the one or the other was found. Now, what is most remarkable in this connection is, that while small pox will freely attack the pleura and produce pleurisy with effusion, it has an abhorrence of the peritoneum, and passes it by without affecting it. Ziemssen, as we previously quoted, declares that he has never known a case of peritonitis produced by small pox, except from a local cause. There could really be no more convincing proof of the absence of a wound and the presence of a specific morbid poison, with its elective affinities and antipathies, than the above interesting fact. Another point of especial significance in this connection, as showing that the abdominal lesions were directly produced by epidemic influence alone, and not by violence alone, or by violence and an epidemic influence together, has been most happily brought out by Dr. Leishman. It will not be forgotten by the medical man, that in a case of ordinary peritonitis plastic lymph and serum are necessary products. And, in a case of ordinary puerpural fever, secondary to some local uterine trouble, there is usually a very large effusion of serum. But in the case under review there was neither lymph nor serum found. The explanation of this peculiarity will be satisfactory from the following remarks by Dr. Leishman in his "System of Midwifery, page 671:—"Admitting the perfect accuracy of Dr. Murphy's description, as above quoted, we recognize in it no reason for modifying the opinion, which has been expressed, that the fever may either, as is usual when it is directly propagated by epidemic influence—in which case the virulence or concentration of the poison reaches its point of greatest intensity—be primary; or it may appear subsequent to the occurrence of true peritoneal inflammation, when it may be secondary." Then, on page 670, he says:—"In puerpural fever the greater the intensity of the seizure, the less the chance of meeting anything like lymph. In the most intense forms no effusion at all may take place." Now, Dr. Morden's pyaemia was really puerpural pyaemia, or secondary puerpural fever, setting in upon a previous supposed inflammation, and would most unquestionably have, at least, an effusion of serum. But in the case before us, where the puerpural fever was lighted up by direct epidemic influence, as small pox, (in which case the virulence or con-

centration of the poison reaches its greatest intensity) there was no trace of effusion, because the puerpural fever was primary and most intense. This fact, together with the additional fact to which we have already referred, that the small pox poison shuns the peritoneum, would irresistibly force the conclusion, that no injury or wound of the womb had been received, leading to inflammation, suppuration, absorption of septic materials and pyaemia. We ask the candid medical man who reads and reflects upon this, whether there could be a more complete vindication than the above facts. Dr. Morden said "the vagina was dark and moist." Dr. Leishman in his "Article on Puerpural Fever," says :—"A much more serious affection than this, and one which has probably a more direct connection with the influence of the puerpural poison, is inflammation of the vagina, of an asthenic type, similar to what occasionally occurs in the course of typhus and other fevers. In this case, the whole vagina, without any obvious local cause, is quickly involved in inflammation of the type alluded to, which defies all treatment, local or general, and rapidly passes into gangrene." Dr. Morden said, "the intestines and peritoneum were dark in color." Dr. Murphy, as quoted by Dr. Leishman, says :—"In peritonitis all the arterial capillaries are highly injected, hence the intestines are streaked with bright red lines of capillaries, that encircle them; in puerpural fever the venous capillaries predominate, hence the livid hue of the intestines, and the dusky red color of the patches and streaks on their surface." Schroeder says :—"In puerpural fever the intestinal coils have a dark brownish red appearance the same as in incarcerated hernia." Dr. Morden found the brain healthy. Schroeder says that inflammation of the cerebral membranes is comparatively rare in puerpural fever. He likewise says, page 341 :—"Besides embolism there is often lobar and lobular pneumonia of ichorrhoemic origin." Dr. Morden found lobar and lobular pneumonia with embolism. Schroeder says :—"The liver is seldom perfectly unaltered," and "in the kidneys also embolic centres are met with, as well as other circumscribed and diffuse inflammations;" "in the cortical portion degenerative processes;" "pleurisy is uncommonly frequent." We need scarcely direct the attention of the reader to the points of resemblance between the above transcripts of the effects of puerpural fever and the post mortem appearances of Dr. Morden's case of pyaemia. But the next quotation from Schroeder would almost seem as if it were expressly written to suit the case. He says, page 351 :—"Icterus (jaundice) and profuse hemorrhage from

the genitals not unfrequently occur. These are soon followed by symptoms, showing that various organs are affected ; cough and pain in the chest show the affection of the lung and pleura." Now, the woman was jaundiced, had profuse hemorrhage from the genitals, and cough, with inflammation of lungs, and pleurisy. Reynolds in his "System of Medicine," vol. 2, page 213, in speaking of pyaemia says:—"But whatever the previous condition of the patient may have been, whether it has been one of perfect health or not, the first symptom to attract attention, is, almost without exception, a sudden, severe and prolonged rigor, followed by profuse perspiration." The woman Burnham had no rigors, nor any profuse perspirations. Schroeder says of puerpural fever:—"Chilliness or rigor is by no means a symptom of great importance. They are often absent in the most fatal forms of puerpural fever." Indeed, the symptoms and post mortem appearances point distinctly to puerpural fever from small pox, and just as plainly serve to exclude pyaemia from injury. Why the initial symptoms of chills and perspirations are dwelt upon as important in this case, are the indications which they afford of the presence of pus giving rise ichorrhoemia. Every surgeon is well aware that in a doubtful case of pus formation in a viscus, the setting in of chills and perspirations would settle the point. Their complete absence in any given case would be strong presumptive evidence, that certain constitutional symptoms denoting blood poisoning could not be due to the absorption of septic materials from unhealthy pus. Again, puerpural pyaemia, or pyaemia setting in from injuries in a puerpural woman, would have a history of acute peritoneal inflammation prior to symptoms of blood poisoning ; in this case, according to Dr. Moore, the acute peritoneal inflammation came subsequently. Then, by the shortest calculation, symptoms of pyaemia would not supervene for three or four days after the infliction of the wound which was the primary cause of it, so that at the worst we could only expect symptoms of blood poisoning to set in on Thursday afternoon; but in Miss Burnham they were first noticed on Wednesday morning. Now, according to Dr. Barnes, Leishman, Schroeder, Churchill, *et al.* symptoms of puerpural fever may set in before labor, during the progress of labor, the first day, or at any time up to the eighth or tenth day, the time of attack depending altogether upon the period of infection. No matter how we look at it, the probabilities are in favor of puerpural fever from contagion, and opposed to pyaemia from injury. We now pass on to the remaining evidence for the prosecution.

Dr. Vaux's Evidence.

Am a physician in Brockville. Knew, but could not recognize, deceased. On the evening of the 22nd of December, about 9 p.m., I went to the residence of deceased. Dr. Moore showed me some membranous shreds, which he said had passed from deceased. I merely looked at them. Thought they were part of placenta. Went to the house on the following Monday to give my opinion as to the probable duration of life. She was then past medical treatment, being comatose. Eyes a little sensitive; abdomen distended very much; face pinched, pale and sallow; sordes on teeth; respiration slow; pulse hardly perceptible. Moore gave a general statement of his treatment. I thought it proper. Felt the danger of attending small pox and attending her case. She died of pyaemia. It was dangerous to attend such a case, as it might originate disease. Can not tell whether it was an after birth, or not, that I saw. Syringe should be used according to circumstances. Jaundice due to bile in the blood.

Dr. Brouse's Evidence.

Was associated with Dr. Morden in making a post mortem examination of the body of the late Miss Burnham. I concur with Dr. Morden in his opinion as to the state of the body. I saw the wound in the womb; the white patch on the outer part of the womb was half an inch in diameter. I believe the opening in the womb was caused by an instrument; the opening was one-sixteenth of an inch in diameter, as if made by a sound. The womb contained about a drachm of pus. I thought death was caused by absorption of pus materials into the blood from the womb. Gangrene had almost set in. I believe the opening to have been caused by mechanical means. This opening I believe to have been the cause of the disease of the womb. I know of no way in which the opening could be caused except by an instrument introduced through the vagina into the cavity of the womb. Had made up my mind that the womb had contained a foetus, but would not swear to it positively. If the abortion had occurred from natural causes there might have been the same appearances. The wound of itself might not cause death. No pus on the outside of the womb, but there was in the inner part; pus from the outside to the inner of the canal. Could not state that pyaemia was from the wound alone.

With regard to positive proofs of pregnancy on purely scientific grounds, and positive convictions of pregnancy from all the circumstances of the case, about which such a hue and cry was raised after Dr. Church's evidence, we have simply to remark that in the more essential particulars Drs. Vaux and Brouse agreed with him. Dr. Vaux believed the membranous shreds "to have been part of a placenta," but says afterwards that he "could not tell whether it was an after-birth or not." Why? Because those membranous shreds might have been portions of a dysmenorrhœal instead of a decidual membrane, and the pains, that preceded their expulsion, might have been the dysmenorrhœal effort, instead of those of abortion. Dr. Brouse said:—"Had made up my mind that the womb had contained a foetus. Believe she had been pregnant, but would not swear to it positively." Why would he not swear positively? Because the only positive proofs of pregnancy would be to find a foetus, or to distinguish the after-birth. There were no proofs of either. Dr. Church, as a medical witness, declared there were no conclusive medical proofs of pregnancy, afterwards he declared, he believed there was an abortion. So far Drs. Church, Vaux and Brouse's testimony agreed. The departure consisted in the statement, on the part of Dr. Church, that the woman had puerpural fever, which, it was said, assumed that she must have been pregnant. Of course, this would have been an objection to his testimony, if he had stated he did not believe she had been pregnant, and if it were absolutely necessary, that a woman should be pregnant before having puerpural fever. Schroeder in his "Essay on Puerpural Fever," page 331, says:—"Puerpural fever, therefore, is nothing else but poisoning with septic matter from the genital organs * * * infection with septic materials arising from the female genital organs occur, as a rule, only in the puerpural state. Exceptionally it is seen also after gynaecological operations. It is then followed by the same changes as in the puerpural state, as is shown in the very interesting cases communicated by Buhl. Changes were found in every respect like those following puerpural fever in the post mortem examination of two girls upon whom episioraphy was performed, and in two others in whom the vaginal portion of the uterus was amputated on account of carcinoma." Medical men are not always governed by positive medical proofs, but by positive convictions, which do not always depend upon positive medical proofs. Expulsive uterine pains, followed by hemorrhage, with membranous shreds in the os-uteri, are not conclusive medical

proofs of pregnancy. These might occur, and do occur, in an attack of membranous dysmenorrhoea. But combine with that the confession of the woman that she had been seduced, and that subsequently she had puerpural fever, which, in the very great majority of cases, require the puerpural state for its development, the conviction of previous pregnancy would be almost positive. But even under all these circumstances, there would be no positive proofs of pregnancy, because all that is necessary for an attack of puerpural fever would be an abrasion of the mucous membrane of the female genital organs which obtains after an attack of membranous dysmenorrhoea. Schroeder says, page 330:—"Infection from without takes place when septic materials are brought to the recent wounds of the genital organs by means of a sponge or of linen used for cleaning the parts, or by instruments, and very frequently also by the examining finger. It is possible also that septic substances floating in the air of the lying-in room may come in contact with the recent wounds." But a woman may have been seduced, and positively believe she was pregnant, and not be in that condition. Now, after an attack of membranous dysmenorrhoea, the inner uterine surface, abraded of its lining membrane, would be in a fit condition to absorb septic materials from without, as from small pox, and the peculiar condition of the womb at the menstrual period would then favor the development of puerpural fever, as in the cases mentioned by Buhl and Schroeder. That an abrasion of the mucous membrane would be sufficient to develop an attack of puerpural fever is furthermore confirmed by the testimony of Dr. Barnes, who says:—"If there be a little scratch, no matter how small, and the poison is conveyed in that way, that is a different case. That is the way wounds act so badly, no doubt." Indeed the only positive medical proofs of pregnancy would be to establish the existence of a foetus, or an after-birth, neither of which was done at the trial. We have made the above remarks in confirmation of the position assumed by Dr. Church at the trial, whose testimony was called in question, and also out of respect to such men as Dr. Lander, who, having heard all the evidence, declares:—"I have grave doubts in my mind as to an abortion having been had, no point in the evidence making the idea." As a medical witness giving medical testimony, Dr. Church was forced to say there were no conclusive medical proofs of pregnancy; at the same time he stated his convictions of the previous existence of pregnancy, and based his testimony upon those convictions; if he had done otherwise he would have testified

to what he believed to be false. His convictions were not based on medical facts alone, but upon these assisted by extraneous evidence, such, for instance, as the deposition of the woman, which had nothing to do with medical proofs; the fact also that no mention was made of any previous attack of dysmenorrhoea to make it probable, that it was from that, instead of from an abortion, she suffered on the memorable Tuesday when Dr. Moore first saw his patient; also the additional fact, that in the vast majority of instances puerpural fever attacks women only in the pregnant or puerpural condition, produced a conviction in his mind that was irresistible. Nevertheless, there were actually "no *conclusive medical* proofs of pregnancy." We shall now proceed with the remaining evidence for the prosecution.

Dr. Weir's Evidence.

I reside at Merrickville. Was called on the 24th December to attend deceased. Saw her at five o'clock Thursday afternoon. Found her very low and prostrated; pulse 112. Made an examination, and found the os distended. Believed that an acute inflammation of the womb existed. At 7:30 p. m. I saw her again. Think Dr. Moore's treatment was suitable. Visited her next morning, and found she had a jaundiced appearance; pulse 108, and not so compressible. Virus of small pox will produce small pox and small pox alone; pyaemia only pyaemia. It would not be generated by erysipelas. Acute infectious diseases only beget their kind.

This gentleman's evidence was most damaging to the prisoners. It found favor with the Judge, and, no doubt, assisted materially in turning the scale against them. How true it is, that acute infectious diseases will not produce a disease almost identical with the one by which it was claimed that the woman died, we can now safely leave with the reader of this pamphlet. If pyaemia and puerpural fever are analagous conditions, and exposure to small pox will produce puerpural fever in the puerpural woman, *now* is scarcely the time to see it established. It should have been reiterated again and again by every medical witness at the trial. If the Judge and jury had thoroughly comprehended this fact, the result would have been different. Will Dr. Weir stand up to-day with Barnes and Leishman and Schroeder staring him in the face, and declare that small pox cannot produce a disease similar to the one of which the woman Burnham died? Will any of the medical witness for the crown assert that it will not

produce abortion, followed by puerpural fever, and that puerpural fever is not quite the same state as pyaemia? If it will produce abortion, and puerpural fever with post mortem appearances similar to those observed in deceased, why was it not so stated at the coroner's inquest and at the trial? The witnesses for the defence were almost accused of perjury because they stated their belief, that the woman died from the effects of small pox. The extracts from the writings of some of the most eminent men in the medical profession, which we have furnished, show upon what grounds the opinion of the medical witnesses for the defence was based. To show that their views with regard to this particular case were shared in by others of at least equal professional attainments with any who testified at the trial, we subjoin the following:—

Dr. Horatio Yate's opinion.

I have read Dr. Morden's evidence as to the post mortem examination held on the body of the late Sophia E. Burnham at Brockville, Ontario, and can see nothing inconsistent in that with the theory that deceased came to her death from malignant small pox —small pox being at that time in the same house.

(Signed) HORATIO YATES, M.D.,
Professor of Medicine, R. C. P. & S., &c.

KINGSTON, May 19th, 1875.

Dr. Octavius Yate's opinion.

Having read Dr. Morden's evidence referred to above, I concur in the same opinion.

(Signed) OCTAVIUS YATES, M.D.
Professor Clinical Medicine R. C. P. & S.

KINGSTON.

W. F. Coleman's opinion.

I have read Dr. J. H. Morden's deposition of post mortem examination of Sophia E. Burnham, and believe the appearances mentioned resulted either from hemorrhagic, small pox or pyaemia. If the latter, I think it more likely to have been caused by the systemic infection of small pox than by the supposed wound through the womb, as there is no evidence to show that there was adhesive peritonitis, which usually results from wounds into the abdominal cavity.

(Signed) W. F. COLEMAN, M.D.,
May 26th, 1875. *M. R. C. S., England.*

J. Fulton's opinion.

I have read the evidence given in the trial of Dr. Eric B. Sparham and Wm. Greaves, also the dying statement of the girl Sophia E. Burnham, and the report of the post mortem examination, and I fail to see anything inconsistent with the theory that the girl Sophia E. Burnhrm died from the poison of small pox. She was exposed to the poison of small pox for about three weeks preceding her death, and it is well known to the profession that the poison of small pox is almost certain to produce abortion, followed by death. The post mortem appearances were also such as are frequently noticed after death from hemorrhagic small pox. The opening in the womb (fundus) in the vicinity of an ulcer might be accounted for from natural causes, and the presence of pus in the womb is no uncommon circumstance after death from accidental abortion. The use of a tubular instrument (speculum) could not cause abortion, and may have been used in the treatment of ulcer of the womb. The matter seems shrouded in doubt, and, as the prisoner is entitled to the benefit of the doubt, it would simply be an act of justice to grant him either a new trial or at least a commutation of the sentence to imprisonment.

(Signed) J. Fulton, M.D., M.R.C.S.,
Professor of Physiology
Trinity College Medical School, Toronto.

Toronto, May 26th, 1875.

Dr. Francis Elkington's opinion.

To Dr. T. Sparham.—I have carefully read over the evidence in the case of Sparham and Greaves, also the extracts from the different authors which you gave me. There were some points which I hope may induce the Judges to entertain favorably any application that may be made for a new trial. 1st—The deceased, in her dying statement, declares that the prisoner Sparham made use of an instrument like a long tube. It scarcely seems probable he would have used a tubular instrument for any other purpose, than that of examining the state of the womb, as to its healthy or unhealthy condition. At any rate, such an instrument could not be used in such a way as to perforate the uterus, and that too at the fundus, or very upper part. 2nd—Dr. Moore speaks of having removed a piece or portion of placenta. This could not have been at such an early period of pregnancy. At two months, it would be rudimentary only,

and possibly might be mistaken for a dysmenorrhoeal membrane. 3rd—I think Dr. Morden stated, he could not be sure an abortion had taken place. 4th—It is possible she might be under the influence of small pox, which gave rise to the pyaemic inflammation, and subsequently to the deposition of pus. Pyaemia has certainly been caused by small pox poison. Putting aside the charge of mechanical perforation of the uterus, I should say, viewing the appearances described as found at the post mortem examination, that the cause of death might be owing to undeveloped small pox—the worst form of the disease, and, when it takes on the hemorrhagic form, generally fatal. It is probable, the deceased was suffering from the poison of small pox, in the first instance, followed by pyaemia, and ultimately by uraemic poison.

I am, my dear sir,

Yours truly,

(Signed) FRANCIS ELKINGTON, M.D.

Formerly Physician Accoucheur to the Lying-in Hospital, and Lecturer on Obstetric Medicine, Sydenham College, Birmingham, England.

Dr. A. Lander's opinion.

Having heard the whole of the evidence in the case of Dr. Eric B. Sparham, I am of the opinion that the evidence given by the medical men who performed the post mortem, did not warrant the verdict given against him, and I have grave doubts in my mind as to an abortion having been had, no point in the evidence making the idea.

(Signed) A. LANDER, M.D.

BROCKVILLE, May 4st, 1875.

Dr. J. D. Hall's opinion.

DR. T. SPARHAM—I was present during the whole of the late trial of Dr. Eric B. Sparham and Greaves, and heard all the evidence adduced. How they could be convicted by it as they were, has always been a mystery to me. In the first place, if the dying deposition is to be received as evidence, let us look at it and see what it does say. In regard to the instrument used by which perforation of the uterus might have occurred, she says:—"He inserted a long tube into me and moved it about in me." It must occur to every medical man that the tube here spoken of must have been a speculum. The Doctor telling her to come again, when he would have better light,

strengthens this belief. Such applications would be as innocent of producing perforation or abortion as the medicines produced at trial were proved to be. No! we must look to another cause for death and abortion. The fact of her, or any other pregnant woman, occupying the same floor of a house at the same time in which there was a small pox patient in close proximity, is *prima facie* evidence (taking all the symptoms and post mortem appearances into consideration) that she died from the small pox poison—the most virulent and contagious of all blood poisons known to pregnant women. The post mortem appearances, "yellow spots in the cut surfaces of the womb," was evidently softening, which a few hours longer lease of life would have developed into perforating ulcers innumerable. All authorities who treat on this subject confirm this belief. I am clearly of the same opinion with Dr. Church that the cause of death was: the contagion of small pox, (the initial stage hemorrhagic) and that the main facts as to the cause of death were not clearly and fully brought out, dwelt upon, and set forth as they ought to have been, when the lives of two human beings hung in the balance. Justice demands a new trial whereby the ends of justice may be secured without undue severity to the individual. A sense of duty compels me to give you this expression of opinion. If it will in any way aid you in procuring a new trial, no one will rejoice more sincerely then.

(Signed) J. D. HALL, M.D.

BROCKVILLE, May 21st, 1875.

Dr. J. E. Brouse's opinion.

DR. T. SPARHAM—I have to express to you my belief that no educated medical man, such as your brother, Dr. E. B. Sparham, is, would use such an amount of force in passing a uterine sound into the uterus as to cause the instrument to pass through the uterine walls.

(Signed) J. E. BROUSE, M.D

Dr. M. K. Church's opinion.

DR. T. SPARHAM—Having read the deposition of the late Sophia Elizabeth Burnham, as well as the evidence of Dr. Morden at the Coroner's inquest in relation to the post mortem appearances of the body of the deceased; and having, moreover, patiently listened to the examination of Drs. Moore, Brouse, Morden, Weir, and Vaux at the trial of

Sparham and Greaves for the wilful murder of the said Sophia E. Burnham, I have come to the conclusion, that there are insufficient grounds for believing, that an abortion was induced on her by noxious drugs, or through mechanical means; but that, on the contrary, death directly resulted from the systemic operation of a *materies morbi*, introduced from without—the said *materies morbi* being the virus of small pox, developing malignant puerpural fever, and manifesting its peculiar septic influence by hemorrhages from various mucous surfaces, and hemorrhagic infarctions within several of the viscera. No truth is more patent to the scientific medical man than the fact, that acute infectious diseases contracted by the pregnant or puerpural woman, will assume a hybrid character of special malignancy, displaying the worst characteristics of the original contagion with symptoms of more grave significance, arising exclusively from the puerpural condition. It is also a fact beyond the reach of scientific questioning, that the puerpural female is peculiarly susceptible to the contagion of small pox, and that continued exposure to its influence would scarcely fail to induce abortion in the pregnant, followed, in both instances, by puerpural fever, terminating with great certainty in death, and furnishing post mortem appearances exactly similar to those found within the body of deceased. The spots observed by Dr. Moore on the body of the woman, the early hemorrhages from the bladder and genitals, the peculiar state of the kidneys and parenchyma of the lungs, the pleurisy with effusion, and the entire absence of any trace of peritonitis, (a characteristic of small pox) point unmistakably to *variola hemorrhagic;* while the very absence of peritonitis recognized post mortem by effusions of lymph or serum, when taken in connection with evidences of most severe and rapid asthenic inflammation of the uterus and vagina, just as unmistakably excludes the possibility of a perforating wound of the fundus uteri being the cause of death. Then, the absence of primary hemorrhage which we might expect from a perforating wound of the pregnant uterus, and the absence of peritoneal inflammation, which we would expect, from rupture of the visceral peritoneum, serve to exclude any such injury as was claimed to be inflicted. Again, the low type of the inflammation, the rapid appearance of softening and gangrene, is not compatible with the results ordinarily observed from wounds in a presumably healthy person, as Miss Burnham was said to have been. Finally, the early supervention of symptoms of blood poisoning, and the absence of the initial rigors and perspirations which "almost

invariably, if not always," usher in an attack of pyaemia from injuries, would in my opinion, especially when taken in connection with other differential indications, exclude it, and compel the view that puerpural fever from contagion produced death. The opening through the fundus uteri was, in my opinion, a perforation into the abdominal cavity from natural causes, due to softening and mortification of a portion of the womb—which softening, mortification, and perforation of the womb always obtain in malignant puerpural fever, lasting beyond a certain period. The pus in the cavity of the womb was a product of inflammation of the lining membrane of the womb. And the ulcer on the outside of the womb was due to a slough—the changes implied by this condition being always more advanced in the external portion of the womb, and at that particular part of it occupied by the placenta.

(Signed) M. K. Church, M.D., C.M.

May 30, 1875.

It will be observed, that Drs. Coleman and Elkington both speak of the woman dying of pyaemia from the systemic infection of small pox, which is the idea advanced by the author. In order to distinguish between pyaemia produced from unhealthy pus arising from wounds, and the same condition engendered by contagion in the puerpural woman, it was found necessary to call the one "puerpural pyaemia," and the other "puerpural fever." It is the possibility of clearly distinguishing between a case of pyaemia from injury, and puerpural fever from contagion, upon which the defence of the accused is principally based. We earnestly solicit the attention of the medical profession to the important distinction we have endeavored to enforce, as it is one involving the innocence or guilt of Dr. Sparham, as well as a question of vital interest in a medico-legal point of view.

We now pass, without any preliminary remarks, to the deposition of the woman Burnham.

Deposition of Miss Sophia E. Burnham.

The information of Sophia Elizabeth Burnham, of the Town of Brockville in the County of Leeds, spinster, taken upon oath before me, the undersigned, one of Her Majesty's Justices of the Peace in and for the said United Counties, at Brockville aforesaid, this 24th day of December, in the year of our Lord 1874, who saith as follows :—I am very ill. I have no hope whatever of recovery. I

expect to die. I was in the family-way two months by William Greaves, sometimes called William Hunter Greaves. I mean that I was pregnant by William Greaves. His occupation is a ticket seller for the Grand Trunk Railway. I know no other William Greaves. He seduced me, and when I asked him to marry me, he said no; he would get me some stuff that would make me all right; that is, that it would bring on my monthly courses. He got me Sir James Clark's Female Pills. I took them, but they did not do me any good. This was four weeks after my seduction. He then said, he would see young Dr. Sparham, and get me something that would surely do me good. He got me something black and very strong, and bitter to the taste, and said there was iron in it, that Sparham had told him so. I noticed it smelt like tincture of myrrh. I asked Greaves if there was any myrrh in it; he said there was, that Sparham had told him so. I took this three times a day for four weeks. The dose was a tablespoonful in half a wineglassful of water. The only effects I felt was, that it physicked me and griped me very much. I told Greaves at the end of four weeks that this was doing me no good. He brought me a beer bottle, which he said he got from Sparham. He said I was to take one-quarter of the contents of the bottle, in a pint of warm water, and use it as an injection, about every three hours. The injection was to go into the womb, Greaves said. I used all the contents of the bottle in this way, on the same day on which I received the bottle. I got the bottle at eight o'clock in the evening, and used it once that night. The next day I continued to use it, until I had finished it. Last Friday when Greaves brought me the bottle, he said that, if that did not succeed, I was to go to Doctor Sparham's, and he would use an instrument. He referred to Doctor Sparham's using the instrument, and then he, Greaves, said, that it would not hurt me, or do me any harm. Greaves told me when he gave me the bottle, that it ought to affect me right away after using it. He brought me with the bottle, the rubber syringe now shown to me. I used the injection with this syringe, as directed by Greaves. When I found the contents of the bottle did not affect me, I wrote Greaves a note, which my little nephew, Willie Burnham, took to Greaves' house, telling him, that the injection had had no effect, and that he had better see Sparham, and get him to make an appointment for me to go to Sparham's house that night at seven o'clock. This was last Friday night I refer to. He came to me a few minutes before seven in the evening. He was not allowed to come to our

house, and so I watched for him, and when he came I went out on the sidewalk, and he crossed over the road to me, and joined me. Then, he and I went to Doctor Sparham's house. This Doctor Sparham is commonly called young Doctor Sparham. He lives directly opposite the Roman Catholic Church, in a white house, with a short verandah across the front, with an office built into the side of the house. This Doctor Sparham is a slight built man, I think, about medium height, with a long black beard, I think, sprinkled with grey. He has black hair, with a dark complexion; he has no color in his face. He is a quiet, mild man, with a low voice. He always wore black in the streets, when I have seen him. He wears a black astrachan fur overcoat in the streets. There is another Doctor Sparham, who lives in the rectory. They call him old Doctor Sparham. I understand he is the brother of the man to whose house I went. The pills and medicines, given me by Greaves, were given me for the purpose of procuring my own miscarriage. When I went with Greaves to Doctor Sparham's house on Friday, the Doctor asked me to walk up stairs, and took me into a bed room. Greaves waited down stairs in the office. I went up to the bed room. The Doctor asked me if I would like to have Mrs. Sparham to come up, saying, it would be just as secret, as she would no more tell it than he would. I said I did not care; that if he wanted her, she might come. Mrs. Sparham did not come. The Doctor said he would like to put a handkerchief over my eyes, so that I could not tell what he did for me, as it was a very serious business, for a lawyer in Montreal had been sentenced to ten years in the penitentiary for even proposing such a thing to a doctor. He said it was very serious sometimes, but in my case it would not be, for I was not long enough gone. He tied the handkerchief over my eyes, and I laid down on the lounge. He seemed to insert a long tube into me, and move it about. I think he did that for ten minutes. He said that would do for that night, and if I had to come back he would rather I would come in the day time, as he would have better light. The instrument or tube was introduced by him into my womb. The instrument was so introduced to bring on my miscarriage. It hurt me, but not very severely. He said in twenty-four hours I would feel the effects of this operation. He said the effect would be pains in the womb and back. He then said, that would do for the night. He then removed the bandage from my eyes. He said it might be necessary for me to come back again, after twenty-four hours, and if I did,

to come in the day time, as he would have better light. Then I went down stairs, and went out of the front door, and Greaves came out of the office door and met me on the verandah, and we came home. Before I left the house, Sparham, who came down stairs with me, told me to use injections of warm water. On the way home Greaves asked me what Sparham had done for me, and I told him what had occurred, and that it hurt me very much. The operation did not affect me in the way Doctor Sparham said, within the twenty-four hours. On Sunday, coming home from church in the morning, I told Greaves it had not had the desired effect, and that he must see Sparham and make an appointment that afternoon for me to go there, I mean to Sparham's house. I was to go there at half-past three on Sunday afternoon. I went alone. Sparham met me at the door, took me upstairs to the same room, and said Mrs. Sparham had better come up into the room, for the people in the house might think it strange his being with me alone. Mrs. Sparham came to the room, and the Doctor put the bandage on my eyes. Then he inserted the instrument, and went through the same operation again, as on Friday evening, only it hurt me worse and took longer. He then gave me the square bottle now shown me, and told me to take two tablespoonsful every two hours. He said this would bring on the pains. I understood this to mean the pains of labor. The instrument was introduced and used on Sunday, as on Friday, to bring on a miscarriage. After getting the square bottle I came home, but did not go to church. I had promised Greaves to see him in church, but concluded to stay at home, and take the medicine. The next morning, last Monday, I woke up with a little pain in my womb. Then I took a dose of medicine in the square bottle, and it seemed to stop the pain. By this time I had taken all but what is now in the bottle. I would not take any more, as I thought it was not agreeing with me. After dinner on Monday last, about two o'clock in the afternoon, I started for Sparham's. Greaves overtook me. I told him it had not come, and I was going back to the Doctor's. He said he had been very anxious about me Sunday evening about six o'clock, and had gone to Sparham's and inquired about me, when they told him I had gone home all right. Greaves left me at the St. Lawrence Hall. The Doctor opened his door as I came up, and I told him I was no better, and he said he would rather I would wait until the next day. I told him I could not, as I was going to my brother's at Brantford on Wednesday afternoon.

Sparham said I would not be fit to travel. I said I must go, as I was afraid my sister would suspect me if I did not go. He said he must go to the druggist to get me something to use, and to give me to take. I went upstairs and waited until he came back. Then he bandaged my eyes again, and performed the operation again of introducing an instrument into my womb, for the purpose of bringing on a miscarriage. He then took the instrument away, and told me it would come for sure this time, and gave me five powders, and told me to take one every two hours, to bring on the pains. I came home and took three of the powders before I went to bed that night. They were black powders, and looked like slate pencil dust. The two powders shown me are the ones I did not take. Last night I told my sister to get them in my dress where they were secreted, and give them to Dr. Moore. She did so in my presence. I thought it would be good evidence. Dr. Moore did not suggest this to me. I woke up on Tuesday morning in great pain, and suffered fearfully all day. Sparham had told me not to fear about the pain, as there would be no harm from it. I bore the pain as long as I could, and then got my sister Lillie to go for Doctor Moore. The Doctor came, and I told him everything, as I tell it now. Mrs. Sparham was present at the second and third operation, and said not to fear the pains, and if it were possible to go up there, when the pains come, and it would be over in a few hours. She assisted the Doctor by holding my feet. When Doctor Moore treated me, he seemed to relieve me, and eased the the pain a great deal. Doctor Moore stayed all Tuesday night, and was very attentive, and seemed to do all he could to save me. I have hardly any pain since Doctor Moore began to treat me. I have been very sick since Tuesday morning. I had a miscarriage on Tuesday. It was the result of the medicines given me, and the operations performed on me, by Doctor Sparham. My present illness is the result of the operations and medicines. If I die in this sickness I believe it will be caused by the operations performed on me by Doctor Sparham, at the instigation of William Greaves. The operations were performed, and the medicines were given, by Doctor Sparham, with the intent to procure my miscarriage. I make these statements in all truth, with the fear of God before my eyes, for I firmly believe that I am dying.

(Signed) SOPHIA E. BURNHAM.

(Signed) J. K. READ, J.P.

A more remarkable document never before issued from the pen of a scribe, taking down the last testimony of a human being, about to be launched into eternity. Here was a woman, whom one experienced physician thought to be dying in the morning, and whom another experienced physician found "very low and prostrated" in the evening, telling the story of her wrongs with that perspicuity of description that, under the circumstances, borders on the marvelous. She was evidently a woman of strong convictions, invincible determination, and powerful antipathies. Quarreling with her brother-in-law, Dr. Moore, she does not speak to him for months, and the man, who, by her own story, sought to save her from a life of shame and disgrace, she describes for purposes of detection, with that thorough finish in detail, that would serve to identify him in the remotest hamlet of the Dominion. His stature, his voice, his hair, his beard, with the grey sprinkled through it, his complexion, with its shading of paleness, his ordinary clothing and its outer covering, his demeanour, his distinctive name, and the house he lived in, have all been described with that faithfulness of portraiture that, under the circumstances, and in her situation, excites our astonishment. Then how apparently eager to establish the guilt of the accused, for she says, she thought the powders in her dress pocket "would be good evidence." Once embarked in the project of destroying the living germ within her, she pursues it with a relentlessness of purpose that knew of no hesitancy. She "could not wait until the next day," because she wanted to go to Brantford on Wednesday, and her sister might suspect her. Four weeks after her seduction she was so firmly convinced of her pregnancy, that she began to take pills to set matters all right. From that time forward, she never once looked behind her. Medicines or instruments, it mattered not which, as long as the end was reached. Whatever she thought she knew, she knew it most positively, and there could be no mistake about it. She knew she was pregnant at four weeks; she knew she had a miscarriage on Tuesday; and she knew that Dr. Sparham gave her medicines, and used an instrument, to bring on a miscarriage. We venture to say that not another woman in the Dominion, pregnant with her first child, could more than barely suspect her condition at the end of four weeks. How did she know she had a miscarriage on Tuesday, for not a physician at the trial would damage his reputation by positively testifying to it? In the same way that she knew she was pregnant at the end of four weeks, and had a miscarriage on Tuesday, she knew

that Dr. Sparham gave medicines, and used an instrument, to produce a miscarriage. Now, while she described every incident of her trouble with surprising minuteness of detail, giving the words used, the hour of the day, and in one instance the few minutes after the hour, the localities, the goings to and comings from, yet in no instance does she say, that Dr. Sparham said he gave medicines, or used an instrument, with the intent specified in her deposition. The idea of a miscarriage existed simply in her own brain, because she believed she was pregnant, and that certain actions on the part of Greaves and Sparham, which were to make her, as she says, "all right," would necessarily result in an abortion. It by no means follows, that because she had positive convictions of her own pregnancy, that Sparham shared in them. It is certain that he could not have been convinced, because, as a medical man, he could not possibly know. The whole secret of her mistake, with regard to Sparham's and Greave's intentions, she involuntarily lets drop, in the beginning of her narrative, when she says, Greaves told her, "he would get me some stuff that would make me all right, that is, that it would bring on my monthly courses." A young woman, startled by the horrible suspicion that she is in a condition to bring disgrace upon herself, and dishonor upon her family, importunes her seducer, who in turn importunes his confidential medical attendant, and the result is that medicines are given to "bring on the courses." These are the words she used, and who doubts, after reading her deposition, that those were the words she was told. It matters not what interpretation she put upon that language, in her own mind. But it matters everything, as to intention on the part of the accused, that she should have been told, that the object of giving medicines was to bring on her courses. All the rest was inferential on her part. While she does not scruple to tell everything that was said, bearing on the case, even varying the phraseology to make her meaning clearer, yet she speaks of her miscarriage, and the means used to effect it, not as a thing she was told about, in so many words, but as a foregone conclusion, just as her pregnancy was. Maddened by the thought of future consequences, she was acting on the offensive, giving no rest until she could be assured she was safe. On the other hand, Greaves and Sparham were acting on the defensive, impelled by the force of circumstances to do something to quiet, to procrastinate, to avert a great calamity perhaps, for who knows what such a woman might do under circumstances of great mental distress? Shall a physician refuse to give his female

patient medicine, whose menstruation has ceased for one, or even two periods, because he knows she has been seduced? If he positively knew, or could by any possibility know at that early period, that the woman was pregnant, then for him to give medicines to bring on her courses, would justify the suspicion of an intent to produce an abortion. But in the absence of any certainty of diagnosing pregnancy, it is held by many conscientious physicians, legitimate and proper to prescribe for the amenorrhoea (cessation of menses), when the careful and judicious treatment of that derangement could not possibly cause the products of conception to be expelled. Were he to act otherwise, would be to stand with his arms folded, and permit his unfortunate patient oftentimes to continue sick and despondent, for three or four months, until he is able satisfactorily to diagnose her condition, when, to his mortification, he finds perhaps no pregnancy, but tubercles in the lungs, in consequence of his dignified inactivity. We know we tread on dangerous ground, but when so much is necessarily left to the judgment and discretion of a physician in matters pertaining to derangements of health, will society make a cast iron law for him in this particular, which shall say: give no medicine to the married woman, or the unmarried seduced woman, who has amenorrheea, for fear she may be pregnant. There are cases of incipient pregnancy, where ill health from anxiety is so great, that it would be almost a sin to withhold medicines, because the woman frankly confesses she has been seduced, and fears she is in the "family way." In such a case, all the ordinary symptoms of pregnancy may be absent, and it is a matter of doubt whether the case is one of amenorrhoea or pregnancy, shall the physician refuse to treat the former, although he is confident his treatment will not disturb the due course of the latter, when treatment means the removal of anxiety, the restoration of color to the cheek, and the regulation of the functions of assimilation and nutrition? The antipathy of the woman Burnham to Dr. Sparham, is one of the marked features of the deposition. Terms of doubtful import, by which his identity might fail to be established, or the guilt of her final undoing fully brought home to him, were re-arranged, to impress the dullest comprehension. To say that she was in the "family way" was to her not sufficiently explanatory, and she hastens to declare that she meant she was pregnant. Then with what relentless significance of repetition she declares:—"The pills and medicines given me by Greaves, were given me to procure my own miscarriage;" "the instrument was so

introduced to bring on my miscarriage;" "the instrument was introduced and used on Sunday, as on Friday, to bring on a miscarriage;" "and performed the operation again of introducing an instrument into my womb, for the purpose of bringing on a miscarriage;" "I had a miscarriage on Tuesday, it was the result of the medicines given me, and the operations performed on me by Dr. Sparham;" "My present illness is the result of the operations and medicines;" "If I die in this sickness, I believe it will have been caused by the operations performed on me by Dr. Sparham, at the instigation of William Greaves;" "the operations were performed, and the medicines given, by Dr. Sparham, with the intent to procure my miscarriage." Surely no one could be mistaken as to her meaning, yet she absolutely could know nothing about the truth of what she so positively asserts her conviction. She was just as certain that she was pregnant, and that an instrument was introduced into her womb, or that the injections she used entered the womb, which would be an impossibility. No doubt she was convinced of the truth of what she deposed. But was it true? To arrive at the truth contained in her deposition, we must disentangle the facts from the inferences. It was certainly a fact, that she got medicine from Greaves to bring on her courses; *that* she states positively. It is evident, however, that she thought to "bring on her courses," and "to produce a miscarriage," were one and the same thing. To her, this mistake made no difference, but the same mistake in Dr. Sparham would make every difference, because he could not possibly bring on her "courses" by inducing an abortion, and a judicious attempt to restore the menses, would be most unlikely to produce a miscarriage. Besides, the treatment of amenorrhoea is legitimate, but the induction of abortion is rarely a necessary procedure. We feel assured there is sufficient evidence in the deposition itself to disprove any attempt at abortion on the part of Dr. Sparham. It was an inference, however, that an instrument was introduced into her womb, just as clearly as it was that the injections were to enter the womb. If the instrument was to be introduced into the womb, for what purpose did Sparham want the better light? A physicicn never requires light to guide an instrument into the womb. Better light would not avail him at all, without he used a speculum, because if he had a thousand eyes, and the effulgence of a thousand suns, he could not see anything without a speculum. Sparham's demand for a better light, clearly establishes the fact, that he used a speculum, which could only be used, in her case, for pur-

poses of diagnosis. Now, if an instrument were introduced into her womb, she would be unable to localize any sensation from it. It might be in the back, or in the abdomen, or thighs; so that for her to say that an instrument was introduced into her womb, would be to declare what she could possibly have no knowledge of, from her own sensations. That she was not told so by Sparham is certain, for she has taken good care to tell everything that could establish the guilt of the prisoners. That injections were to be syringed into the womb, that an instrument was actually introduced into the womb, or that medicines were given, and operations performed on her, for the purpose of bringing on a miscarriage, are merely the inferences of a woman thoroughly impressed with a certain fixed idea. We want the facts, and the facts only. By them we are prepared to stand or fall. It may be objected that Greaves told her, Sparham would use an instrument. Of course, and Greaves likewise told her, the injections would go into the womb, when Sparham could not possibly have told him so, unless he lied, for he knew better. The fact was, the woman was pertinacious in her inquiries, for she was bound to be satisfied that these men were acting in good faith. To be told, that injections could not be made to enter the womb, by her own unaided efforts, would have been to her an incomprehensible means of accomplishing the end in view. Hence, Greaves told her the injectins were to go into the womb, for she could understand, how water impregnated with medicine, by entering the womb, might dislodge the products of conception. She was evidently restless and suspicious of the uselessness of all medicines, for had she not been taking pills and drenches for a whole month, without effect, and to be told that when all else failed, instruments might be efficiently employed, would be to satisfy and quiet her. Greaves was certainly at his wit's end to prevent an outburst of fury and a scene, and unfortunately Sparham in his weakness must have lent himself to the deception. But that he did any more than this, is an insult to common sense, and a contravention of facts. Let it not be forgotten, that Sparham only gave medicines to bring on her courses, which, as a physician, he had a perfect right to do; but that he gave them for an illegitimate purpose, has not the slightest shadow of proof, only the vague deductions of a mind ill at ease. That he also used a speculum, we do not discredit, the presumptive evidence being in favor of it, but a speculum could not effect, and would not be used for purposes of abortion. We take the position, supported by facts and warrantable probabilities, that

Dr. Sparham treated his patient for idiopathic suppression of the menses, which, in the event of pregnancy, would not tend to disturb it. That the nature of the medicines he prescribed, whether by mouth or by injection, would bear out that conclusion; that not being able to diagnose pregnancy, he honestly treated her for amenorrhoea, which might be the difficulty; that neither Sparham nor Greaves told the woman that a miscarriage was to be effected, but that her courses were to be brought on; that although Sparham must have known the meaning attached by the woman to the phrase "would bring on my monthly courses," yet, for obvious reasons, he did not seek to instruct her as to the true state of the case, because she would not, in her frenzied condition of mind, submit to any treatment, except that having for its object the expulsion of the products of conception. That some kind of treatment was necessary to quiet the morbid anxiety of the woman as to her condition, may be inferred from the history of the case as given by herself. Now, the true state of the case may be summed up as follows:—After her seduction, Miss Burnham wished Greaves to marry her, which he refused. When her "courses" did not come on at the next period, she stated her condition to Greaves, who promised to get something to bring them on. For that purpose, he procured Sir James Clarke's pills. Those failing, he applied to Sparham. Sparham knowing the impossibility of diagnosing pregnancy at that early period, and hoping that her "courses" had ceased from natural causes, concluded to treat her for idiopathic suppression of the menses, expecting that when the next monthly period came around she would be all right; that in order to persuade her to submit to such a lengthened treatment, Greaves told her that all failing, instruments might be effectively used; that she finally insisted upon the fulfilment of his promise to use instruments; that her importunities were so great, and her morbid anxiety bordering on frenzy so evident, that Sparham did use a speculum, partly as a placebo, and partly for the purpose of examining the mouth of the womb; that observing a congested condition of the womb, probably arising from the action of the small pox poison on the mucous membrane of the genitals, he felt certain that menstruation was just about to take place, and hence he told her "it would come for sure this time;" that at this very time she was already infected by small pox, which, producing abortion, gave rise to puerpural fever and death. As corroberative evidence that there was no understanding between Greaves and Sparham to procure an abortion, and that our

statement of the case is a true solution of the whole difficulty, we subjoin the following:—

Deposition of Wm. H. Greaves.

Province of Ontario,
County of Frontenac,
To wit:

I, William H. Greaves, at present a convict in the Provincial Penitentiary at the City of Kingston in the County of Frontenac, make oath and say:—

1. That I never, directly or indirectly, made any agreement, compact, or bargain, with Dr. Eric Benzel Sparham, or with any one on his part, nor did the said Eric Benzel Sparham, or any other person on his part, either directly or indirectly, make any agreement, compact, or bargain, or proposition, to, or with me, or any one on my behalf, to produce, or attempt to produce, abortion on the late Sophia E Burnham.

2. That I never, directly or indirectly, gave the said Dr. Eric Benzel Sparham any money, or the promise of any money, or reward of any kind whatever, for that purpose, or any purpose in any way connected therewith.

3. That I never, directly or indirectly, by myself, or by any other person on my behalf, supplied the said Sophia E. Burnham with money, or the promise of any money, or reward of any kind, to enable her to have an abortion performed, or attempted to be performed, on her by any person, or for any such purpose.

Sworn before me at the Kingston Penitentiary, at the City of Kingston in the County of Frontenac, this 14th day of December, A.D. 1875.

(Signed) W. H. Greaves.

E. H. Dickson,
A Commissioner, &c.

If the evidence of Davis, the Toronto abortionist, be taken by the authorities, and be considered sufficiently reliable to cause an action to lie against Alderman Clements, surely the evidence of Greaves, who was accessory before the fact, and could not have designed or anticipated the death of the woman, ought to be more credible in clearing Dr. Sparham, when we take into consideration the antecedents of the two witnesses. His testimony, together with the corroborative evidence we have already adduced, should clear up all remaining doubts, which the most sceptical may entertain, with regard

to the innocence of the accused. For fear, however, that some vestiges of incredulity may exist with regard to Dr. Sparham's treatment of his patient, we shall now consider it, in as brief a manner, as is consistent with clearness and comprehensibility.

No one knew better than Dr. Sparham, a skilful and experienced physician of twenty years standing, the effect of medicines in producing an abortion, and the danger arising from the use of instruments for the same purpose; and we would naturally expect that his procedure, if he had any reason to suspect a probability of pregnancy, would be characterized by extreme caution, having, with instinctive professional guardedness, the safety of his patient in view. Upon reading the woman's deposition, three facts of peculiar significance stand prominently forth: 1st—The names of certain drugs used, it is said, to produce a miscarriage; 2nd—The employment of vaginal injections in aid thereof; 3rd—The use of a tubular instrument, which was a reserved force to effect the *coup de grace*. The medicines mentioned in the deposition as given to his patient by Dr. Sparham were iron, myrrh and aloes. We will first speak of the general effect of medicines in producing abortion, and of these medicines in particular. Dr. Taylor in his standard work on Medical Jurisprudence, page 415, says:—"Medical substances are perhaps more frequently resorted to, for inducing criminal abortion, than other means, but they rarely answer the intended purpose, and when this result is obtained, it is generally at the expense of the life of the mother." There is no drug, says Mole, "which will produce miscarriage in women, who are not predisposed to it, without acting violently on their system, and probably endangering their lives." Copeland says:—"Where abortions of a stimulating character succeed in causing a miscarriage, they can only do so at the risk of destroying the woman's life," De La Motte also states:—"That he has seen the most energetic evacuants produce gastritis, enteritis, peritonitis, and death itself, without abortion following as a consequence." We have produced the above extracts to show the extreme hazard of using medicinal substances to effect abortion, and the very great improbability, that an educated medical man would employ them for that purpose. Now, it is charged in the deposition against Dr. Sparham, that he did give certain drugs to bring on a miscarriage. The fact was established, that he administered certain drugs, the names of which were specified, with the exception of a powder, that looked like a phosphate of iron; but his intent has been, as we have seen,

only inferred. The woman's evidence, as to facts, is good, but her deductions are quite a different thing. If she had deposed that Sparham gave her medicines, telling her that they were intended to cause her miscarriage, then that would be a fact, and the conclusion would be irresistible, in the absence of positive rebutting testimony, that his intent was criminal. But if, on the other hand, he gave her medicines, and told her those medicines were to bring on her "courses," then, no matter what her convictions were, we must accept the statement as literally true, without it can be shown, that the medicines would not have the effect of bringing on a woman's "courses," or that an additional probable effect would be to procure a miscarriage, in the event of pregnancy being the cause of the "courses" having ceased. This is an honest and reasonable statement of the case, and by it Sparham's intent must be judged. From the deposition we learn that Sparham caused to be administered to her a mixture of iron, myrrh, and aloes. We shall examine these medicines separately and in combination, and judge of their physiological effects and therapeutical indications. But, first of all, we would direct the attention of the reader to the fact, that medicines sometimes act upon pregnant women harmfully at an advanced stage of utero gestation, when at an early period they are remedial and beneficial. Without this fact is constantly borne in mind, our deductions may not be entirely in accord with the experience of some medical men. And in speaking of those medicines in particular, we would have it understood, that our remarks are intended to apply to cases of pregnancy in the *early months*, as the one under consideration, without it is otherwise stated.. What about iron? Did any medical man ever know of iron producing an abortion? Cazeau, the celebrated French accoucheur, after maintaining the view, that the system during pregnancy is in a state of anaemio-chlorosis, says:—"An animal diet and the administration of chalybeates (iron) have for many years seemed to me to be as useful against the functional disorders of pregnancy as against those of chlorosis." Dr. Leishman, while admitting that iron sometimes deranges the digestion of a pregnant woman, and that she is frequently in a chlorotic condition, remarks: "The only class of medicines which stand prominently in advance of others in the treatment of chlorosis, (of pregnancy) are, of course, the various preparations of iron, which should, therefore, in every case be tried." Here we have the highest French and English authority as to the therapeutical indications of iron in pregnancy. Now, Copland,

in his "Dictionary of Medicine," vol. 1, page 10, says:—"When from our knowledge of the state of the ovum in previous abortion, we suspect a repetition of it, we may endeavor to prevent it by using those means which are most successful in imparting energy to the constitution, and through it to the generative functions, so that the process of foetation may proceed to a successful issue. This is perhaps best accomplished by change of air, the use of the tonic mineral waters, both internally and in the form of baths, by the mineral acids given in the infusions of the bitter tonics, or with the solutions of the salts of iron, as the Tr. Ferri sesquichloridi * * and by attention to the state of the bowels, to diet, and gentle, but regular, exercise." It it not a little remarkable in this connection, that while Dr. Sparham has been specially charged with an attempt at abortion by the use of drugs, the very first one on the list is shown to be not only a desirable remedial agent for a very common derangement of pregnancy, but actually recommended by very high authority in cases of anticipated or threatened abortion. Next we have myrrh coming up in review. This medicine has been unaccountably claimed by the ignorant as having abortive tendencies. We never yet heard of an instance of its producing abortion, and believe it to be no more abortive than castor oil. It is a tonic and stimulant, and says Stille, vol. 2, page 602:—"It has been found very useful in atonic dyspepsia characterized by flatulence, mucous evacuatious, constipation, and associated nervous disorders of a hysterical or hypochondriacal nature. In this affection it is advantageously associated with vegetable bitters and ferruginous (iron) preparations." Who doubts, after reading Miss Burnham's deposition, that she was hysterical, and even hypochondriacal; yet here is myrrh in combination with iron recommended for that very condition, by a man who evidently understood his business. Turn again to Copland's "Dictionary of Medicine," vol. 1, page 6, and find:—"Hysterical states of the nervous system" as predisposing to abortion. As far then as iron and myrrh are concerned, while they are shown not to be abortives, they are among our most effective agents for removing peculiarities of condition, that tend to produce abortion. We now fall back upon aloes, which seems to be the bug-bear. What do the best authorities of the day say of it and its class? Taylor, in his Medical Jurisprudence, says:—"Purgatives which produce much straining will readily produce abortion in the advanced stages of pregnancy, but these violent medicines *fail* in their effect in the earlier stages. The substances just mentioned exert an

indirect action on the uterus by producing shock to the general system." Here are two facts worthy of comment: 1st—Purgatives fail (no qualification) to produce abortion in the earlier months of pregnancy; 2nd—They can only produce such effects by shock to the general system, and hence must be given in enormous doses, sufficient indeed to make the fact, as previously quoted from Taylor, still more glaring, that abortion by medicines is "generally at the expense of the life of the mother." But if Dr. Sparham had really intended to produce abortion by aloes, why did he give it in conjunction with iron and myrrh, which, as we have seen, are, under certain conditions, actual preventives of such an untoward event? The reason is obvious, as will be soon made apparent. What we are at present more concerned about is the proof that aloes, equally with iron and myrrh, was, in the then condition of the woman, a preventive of abortion. No medical man, who knows anything about the history of this unfortunate case, would hesitate to say, that the woman Burnham was in an hysterical and hypochondriacal condition. Her rupture with her brother-in-law, Dr. Moore, and studied coldness towards him for months, which fact was made known at the trial, and her irritability and morbid anxiety to get rid of the source of her shame, before even she could more than suspect its existence, indicate it beyond the shadow of a doubt. Now, in hypochondriasis obstinate constipation is the most constant symptom, and in hysteria it is a common one. (see Reynolds, Copland, *et passim.*) It would, then, be a natural inference, that such was the case in this instance. Copland says that "constipation" is one of the "exciting" causes of abortion; and Dr. Lee, who edits Copland's "Dictionary of Medicine," in the article on abortion, remarks: "pressure exercised on the uterus by the bladder and rectum, when these organs are distended," are exciting causes. No purgative would probably be equally effective with aloes in obviating constipation, and by some medical men it is habitually used in the constipation of pregnancy. But where used in conjunction with iron and myrrh, a three-fold object would be secured, namely, removing debility, correcting the hysterical and hypochondriacal tendency, and regulating the intestinal discharges. We look at the connection in which medicines are given by a judicious and educated practitioner, to judge of his intent, and we venture to assert, that when Dr. Sparham prescribed iron, myrrh, and aloes in mixture, he had no intention of producing an abortion. It was just such treatment as a well-informed medical man would most likely adopt, in just

such a woman, in a similar condition, who was morbidly anxious to retain the products of conception. Then it must not be forgotten, that she was taking the above mixture for a whole month, which clearly indicates, that the Doctor was striving to strengthen her and improve her blood, so that when the time came for her menses to appear, her system would be in a suitable condition for its spontaneous evolution. To prove that this is the legitimate effect of the medicines administered to the woman by Dr. Sparham, we are obliged to quote again from Dr. Stille, who, in his "Therapeutics," vol. 2, page 602, says :—"Amenorrhoea (suppression of the menses) and scanty menstruation, when they depend on a cold, relaxed, and torpid state of the system, are benefitted by myrrh, especially when in combination with iron, as in Griffith's Mixture." Again he says :—"There are cases on the other hand of simple anæmia with scanty or suppressed menstruation, accompanied, in the former case, with some degree of uterine pain, and, in the latter, replaced by an ineffectual and painful effort, recurring with more or less regularity at monthly periods. Such cases are usually cited as indicating torpor of the uterine system, and it is certain, that in their treatment an almost essential adjunct to iron consists in the use of *aloetic laxatives*, and such general hygienic measures as tend to stimulate and strengthen all the functions of the economy," (Stille, vol. 1, page 468). We have now said sufficient concerning the medicines administered by Dr. Sparham, to establish beyond a reasonable doubt, that he did not intend to produce abortion by them, but that his object was, in every sense, a legitimate one in treating his patient for idiopathic suppression of the menses; more especially, as such treatment could not possibly interfere with the natural course of pregnancy, if such existed. We next turn our attention to the use of vaginal injections, which have been supposed to be another link in the chain of circumstantial evidence, tending to criminate the prisoner Sparham. We admit, that vaginal injections have been used to bring on premature labor when the child is viable, and might, if there was a strong predisposition to abortion, effect it in the earlier months; but they are attended with so many risks, while much safer and more effective methods of producing the same result are known, that they have fallen into deserved disuse. But vaginal injections are likewise employed to assist in restoring the menses, when they have been delayed or suppressed. An essential adjunct to their success in causing the foetus to be expelled, would be a forcible impinging of a steady stream of warm water against the lower

segment of the uterus for ten or fifteen minutes at a time, and such injections used frequently in the day; so that apart from the danger, it is rather a clumsy method of effecting what might be accomplished much more readily and safely. In reading the deposition, we find no such directions given as the above. A pint of water was used at a sitting, whereas it would require quarts to make it anything like a success in producing a miscarriage. To act as an abortive, it must be used with such force, and for such a lengthened period, as to produce a shock, and thus, by reflex action, induce labor pains. Whereas, when used to restore the menses, it acts like a shower bath upon the skin, by attracting the blood to the part, which object is attained by a minimum quantity of fluid; for as in the shower bath, so in this case, a shock is in every sense to be avoided. Then, it will be remembered, that Sparham had been for a whole month preparing her system for the natural restoration of the menses, by medicines, whose effect would be antagonistic to any such attempt at abortion, because the better her general condition, the less likelihood of his being able to produce an amount of shock, necessary to bring on labor pains. It will not be forgotten, by those who read the evidence of the Toronto abortionist, Davis, that after using the metallic catheter and syringe his victim felt a shock and a chill. No doubt he introduced a male catheter into the womb and syringed water by that means into it. It will be thus plain, that vaginal injections to bring on abortion must produce shock, and to produce shock the fluid must be impinged against the lower uterine segment with continued force. In every way, however, it looks unreasonable that Sparham's left hand should strive to undo what his right hand had labored to build up. But we find him directing medicine from a bottle, to be used with a pint of water. According to Stille, vol. 1, page 328, Lavagna used injections of liquor ammonia diluted, for suppression of menses; and on page 367, he records the fact that Retzius, of Stockholm, used vaginal injections of lunar caustic for the same purpose. Now, we never heard of medicated vaginal injections being used to induce a miscarriage, and would consider that giving them with that intent, and in sufficient strength and with such force as to effect it, would be incurring a risk too great to be thought of for a moment. From these facts it will be apparent that Dr. Sparham, by recommending medicated vaginal injections, was simply carrying out the same general plan of endeavoring to restore the menses: 1st—By a course of strengthening medicines, calculated to impart vigor to the system, improve the

condition of the blood, and regulate the secretions; and 2nd—By stimulating vaginal injections to aid the menstrual nisus, just as we ordinarily use stimulating hip-baths; for it will not be forgotten that the injections were used at the close of the second month, when the menses ought to appear, if there were simple suppression. If Dr. Sparham were an ignorant quack, we would not pretend to fathom his motives or account for his actions, because then, we might expect from him any egregious act of folly. But that a man of skill and experience should do that, which we can only attribute to gross ignorance, or blind infatuation, is asking too much to believe, until we obtain more reliable proofs that knowledge is but an igneus fatuus, and that one, held responsible by the laws of his country, is a fit subject for a lunatic asylum. We have already referred to the instrument, which the woman says, was introduced into her womb, although she does not tell how she knew that important fact. The only proof, she could have, of the instrument having entered the womb, apart from what Sparham might have told her, would be certain vague sensations, which it would be impossible for her to distinctly localize in that organ. She evidently thought the injections entered the womb, but that would be impossible, without she caused the nozzle of the syringe to enter the os-uteri, which would be impracticable. Doubtless she thought, that everything passing into the vaginal canal found its way, as a matter of course, into the womb. But it will never do to permit her baseless deductions to swear away the life and liberty of a man. In the absence of any direct proof of the kind of instrument used, we have a right to infer, for reasons self-evident, that Dr. Sparham used a speculum, which he could so manipulate that she might say with perfect truth, "he moved it about in me." The inferential proof that the instrument was a speculum, consists in the fact, that he must have "better light." To introduce a uterine sound, as Dr. Brouse suggested, does not require light, because light will not avail anything, for the obvious reason, that as the lips of the vagina are closed, no light can penetrate. Such an instrument would be introduced by feeling for the os-uteri with the finger, and guiding the instrument along it into the womb. But did he not use a speculum for the purpose of introducing a uterine sound into the womb? It is impossible to enter a uterine sound through a speculum up to the fundus of a womb in the second month of pregnancy. Consider the axis of the womb in relation to the vagina, which would be in the direction of a line drawn from

the fundus through the os-uteri, and impinging upon the centre of the Sacrum, or almost perpendicular to the plane of the bed. Then consider the curve of the sound, and the narrow openings at the extremities of the speculum, which would prevent the advance of the sound further than the neck of the womb. It is a physical impossibility to introduce a uterine sound through a speculum up to the fundus of such a womb, and by that means use sufficient force to cause a penetrating wound of the upper part of it. Because, to produce such a wound by an instrument necessarily curved and stiff, the handle of the instrument would have to be depressed towards the perineum, or couch upon which the woman reclined, as any one who has applied the forceps with the head high up in the pelvis must be aware. For it is notorious that in the second month of pregnancy there is invariably anteversion of the womb. Then, again, the fact of his requiring the speculum to introduce the sound, shows that amount of timidity as to its introduction, incompatible with the amount of force necessarily required to penetrate an organ which Dr. Gray, in his "Anatomy," says, "is about as dense as cartilage." In a document so important as the declaration of a person upon the eve of death, we are apt, out of respectful reverence to the departed, and perhaps influenced by a feeling akin to superstition, that to criticise it in the same sharp, bluff way we might any other document, would amount to a species of sacrilege. It may be, too, that we instinctively feel, that such a document, given under such circumstances, is more apt to contain statements more truthful than we should expect under the ordinary circumstances of vigorous health, and a long prospect of life before the narrator. We are personally conscious of this feeling, and nothing but a stern sense of justice to the living, alloyed with no kind of disrespect to the dead, forces us to sift out of the deposition, the reliable facts from the unreliable deductions. The facts were, that the woman got medicines from Sparham to bring on her "courses"; that these medicines were iron, myrrh, and aloes; that she had given to her vaginal injections to aid the medicines; and that an instrument was used by being introduced into the vagina, ostensibly to aid the medicines and injections. The groundless inferences were, that medicines were used to bring on a miscarriage; that injections entered her womb; that an instrument was introduced into the womb; that operations were performed to bring on a miscarriage; and that her present illness was due to the medicines and operations.

We have shown that the medicines are ordinarily and legitimately used to bring on menstruation; that they are not used by men knowing their physiological effects to produce abortion, because they cannot produce it, especially in the early months, without involving coincidently the death of the mother; that, on the contrary, they are employed to remove peculiarities of condition, leading to abortion; that a woman with an ordinary rubber syringe cannot cause an injection to enter her womb; that a woman cannot sufficiently localize her sensations so as to be confident that an instrument has entered her womb; that the strong probability is in favor of a speculum being used by Sparham, but that a speculum could not produce abortion; that if a speculum were used, a uterine sound or similar instrument could not be used simultaneously so as to be made to perforate the fundus uteri; that there are no facts, elicited from evidence, leading to the belief that any other instrument, but one requiring "better light," was used; that a uterine sound does not require better light to use properly, but that a speculum does. We have likewise shown, that the long time, during which medicines were taken by Miss Burnham, would indicate, that they could not have been prescribed by an educated medical man for abortive purposes, but rather to strengthen and build up. And that if those medicines were strengthening and regulating, as they undoubtedly were, abortion would not naturally result from their use. We consider, that the deposition itself, by the internal evidence it affords, contrary to popular opinion, ought to be sufficient to disprove the charge of attempted abortion on the part of Dr. Sparham. There is no evidence in it to show that any such attempt was made, nothing but assertions and inferences. But that the inferences, when properly drawn, point in an opposite direction, there can certainly be no reasonable question. Taking for granted that the whole charge against Dr. Sparham is true, that he did attempt the abortion with instruments, what is the position he occupied? Why this: that an educated medical man accepts as true the ipse dixit of a half-crazed woman, that she is in the "family way" at such an early period, that it is impossible for him to verify its correctness, and that he proceeds forthwith, upon such slim evidences, to stab away at that which, at the very best, could only be a projection from the inner surface of the womb, but which, on the other hand, might be nothing at all. If the woman had been pregnant four or five months, and he could positively know that a foetus existed, the attempt would not appear so absurd. But as he could not know

positively, it is incredible on the face of it. Now, we know for certain that he did not accept her ipse dixit as true, for, as we have clearly shown, he treated her for idiopathic suppression of the menses, which would have been all waste powder in case of pregnancy. He only used an instrument when, by her importunity, he was obliged to do something to pacify her, and one use of it of course demanded another. Doubtless he was anxious likewise to observe the condition of the os-uteri, to observe whether any glairy discharge was issuing from it, besides arriving at some approximate idea of the existence of affections of the womb which notoriously simulates pregnancy. Of course we can only conjecture as to his reasons for using a speculum, but if he doubted the existence of pregnancy, there are very good reasons why he used it for purposes of diagnosis. That he did use one is quite evident, and that he did not use it to assist in procuring an abortion is just as evident. We have now examined the proofs *pro et con*, and hope that the public generally, and the medical profession in particular, will give them that careful consideration which the importance of the case demands. We trust we have established from incontrovertible scientific facts and deductions, that the woman Burnham could not have possibly had a penetrating wound of the fundus uteri, but that the opening observed post mortem was due to natural causes. We are convinced we have proven that the symptoms during life, and the morbid appearances after death, were due to the action of a specific poison called small pox. We now claim from the public a sentence logically demanded from the following portion of Judge Patterson's charge:—"But if besides the wound there is another cause, as from pus generated, it might be from small pox. If that is so, and death was really caused by small pox, then we could not say that the wound was the cause of death, as the disease might occur naturally." Guided by the above judicious and equitable considerations, WE DEMAND JUSTICE, AND CONFIDENTLY AWAIT THE DECISION OF AN INTELLIGENT AND CONSCIENTIOUS BRITISH PUBLIC.